



Finance & Tax Committee

Wednesday, March 22, 2006

**4:15 PM – 5:45 PM
404 HOB**

MEETING PACKET



The Florida House of Representatives

Fiscal Council

Finance & Tax Committee

Allan G. Bense
Speaker

Fred Brummer
Chair

AGENDA

March 22, 2006
4:15 PM – 5:45 PM
404 HOB

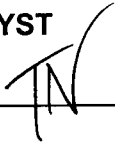

- I. Chairman's Remarks
- II. **HB 69** – Exemptions from the Tax on Sales, Use, and Other Transactions by Meadows.
- III. **HB 415** – Tax on Sales, Use, and Other Transactions by Quinones.
- IV. **HB 573** – Disabled Veterans by Bilirakis.
- V. **HB 615** – Professional Sports Franchises by Simmons.
- VI. **HJR 631** – World War II Permanently Disabled Veterans' Discount on Homestead Ad Valorem Tax by Sansom.
- VII. **HB 891** – Local Occupational License Taxes by Goldstein.
- VIII. **HB 917** – Property Taxes by Needelman.
- IX. **PCB FT 06-01** – Corporate Income Tax by Finance & Tax.
- X. **PCB FT 06-03** – Tax on Sales, Use and Other Transactions by Finance & Tax.

XI. **PCB FT 06-05** – Property Tax Exemptions by Finance & Tax.

XII. Adjourn

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 69 Exemptions from the Tax on Sales, Use, and Other Transactions
SPONSOR(S): Meadows and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1180, SB 1206

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee		Noriega 	Diez-Arguelles 
2) Economic Development, Trade & Banking Committee			
3) Fiscal Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

This bill broadens an existing sales tax exemption for industrial machinery and equipment purchased for use in an expanding facility engaged in spaceport activities or for use in an expanding manufacturing facility. The bill eliminates a requirement that the business pay the first \$50,000 in sales taxes per calendar year on these types of purchases before the exemption applies. The effect of the bill is to provide a full, rather than partial, sales tax exemption for industrial machinery and equipment purchases when the business can demonstrate that the items will be used to increase productive output at the facility by at least 10 percent.

The bill also broadens an existing sales tax exemption for machinery and equipment purchased for use by new or expanding solid minerals, mining, or processing operations. Under current law, this exemption can only be taken as a credit against severance taxes due and the taxpayer must demonstrate the creation of a certain number of jobs. The bill removes these two requirements, placing these types of businesses in the same position as other new and expanding manufacturers.

Finally, the bill broadens an existing sales tax exemption for machinery and equipment purchased by an expanding business pursuant to federal procurement regulations by eliminating a requirement that the business pay the first \$100,000 in sales tax per calendar year on these types of purchases before the exemption applies.

The Revenue Estimating Conference has estimated that this bill will have a negative fiscal impact of \$19.7 million to state government and \$4.4 million to local governments in FY 2006-07, and of \$21.4 million to state government and \$4.7 million to local governments in FY 2007-08.

The bill has an effective date of July 1, 2006.

The bill provides an appropriation of \$210,069 from the General Revenue Fund and four positions are authorized to the Department of Revenue.

This bill appears to be a mandate that requires a 2/3 vote of the membership of each house to pass.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: This bill eliminates the sales tax paid on the purchase of machinery and equipment by expanding businesses.

B. EFFECT OF PROPOSED CHANGES:

Current Law

Chapter 212, F.S., contains the state's statutory provisions authorizing the levying and collection of taxes on sales, use, and other transactions. This chapter also contains provisions for sales and use tax exemptions and credits applicable to certain items and under certain circumstances.

Industrial machinery and equipment purchased for exclusive use by a *new* business in spaceport activities or for use in a *new* business that manufactures, processes, compounds, or produces for sale items of tangible property at a fixed location are exempt from the tax imposed by ch. 212, F.S.¹ To avail itself of the exemption, a business must demonstrate to the Department of Revenue that the machinery and equipment are used in this state. Additionally, a new business must purchase the machinery or equipment before the date the business initially begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

A similar, but partial, sales tax exemption is provided for industrial machinery and equipment used exclusively by an *expanding* facility that is engaged in spaceport activities or used in an *expanding* manufacturing facility that manufactures, processes, compounds, or produces for sale items of tangible personal property at a fixed location in this state. In these cases, however, the exemption applies to tax amounts in excess of \$50,000 per calendar year on machinery and equipment purchases. Also, industrial machinery and equipment purchased by an expanding business pursuant to federal procurement regulations is exempt from sales tax in excess of \$100,000 per calendar year.² In order for the exemption to apply to these expanding businesses, the businesses must demonstrate that the machinery and equipment are used to increase productive output by at least 10 percent.³

Machinery and equipment purchased for use in phosphate or other solid minerals severance, mining, or processing operations are entitled to the new or expanded business exemptions only by way of a credit against phosphate taxes paid.⁴ In addition, in order to qualify for the exemption, a new mining business must create at least 100 new jobs in Florida; an expanding mining business with less than 2,500 jobs must increase the number of Florida jobs by at least 5 percent; and an expanding mining business with more than 2,500 jobs must increase the number of Florida jobs by at least 3 percent.⁵

When the industrial machinery and equipment are purchased for use in an expanding printing manufacturing facility, the \$50,000 threshold does not apply, and the taxpayer does not have to pay any sales tax amounts related to the purchases.⁶

To receive these exemptions, qualifying businesses must apply to the Department of Revenue for temporary tax exemption permits. A business must maintain all books and records to support the

¹ Section 212.08(5)(b)1., F.S. The term "spaceport activities" refers to activities directed or sponsored by the Florida Space Authority on spaceport territory through its power and duties under the Florida Space Authority Act (s. 212.02(22), F.S.).

² Section 212.08(5)(d), F.S.

³ Section 212.08(5)(b)2.a., F.S.

⁴ Section 212.08(5)(b)5., F.S.

⁵ Section 212.0805, F.S.

⁶ Section 212.08(5)(b)2.b., F.S.

exemption. The department, upon an audit which determines that the business does not meet the criteria for the exemption, shall immediately collect from the business the amount of taxes exempted plus interest and any penalty.⁷

The term "industrial machinery and equipment" refers to "tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities."⁸

Proposed Changes

This bill revises the existing sales and use tax exemption for industrial machinery and equipment purchased for exclusive use in an expanding facility that is engaged in spaceport activities or for use in an expanding manufacturing facility, by removing a limitation in the current law that the exemption applies solely to tax amounts above \$50,000 per calendar year. The bill also removes the \$100,000 threshold applicable to purchases of machinery and equipment pursuant to federal procurement regulations. The bill retains the requirement that the taxpayer demonstrate that the machinery and equipment will be used to increase productive output by at least 10 percent at the facility.

The bill removes the requirement that businesses involved in mining operations can only take the exemption as a credit against phosphate taxes due and repeals the requirement for job creation applicable to mining operations.

By eliminating the \$50,000 threshold on the spaceport and the general manufacturing exemption, the bill has the effect of making a separately stated and specific exemption for printing manufacturing facilities redundant, as these printing facilities would now be captured within the general manufacturing exemption. Therefore, the bill deletes from current law the separately-stated and specific exemption for printing manufacturing facilities codified in s. 212.08(5)(b)2.b., F.S.

The bill has an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1. Amends s. 212.08, F.S., relating to sales tax exemptions for machinery and equipment.

Section 2. Repeals s. 212.0805, F.S., relating to the number of jobs that have to be created by a new or expanding mining operation in order to be entitled to a sales tax exemption.

Section 3. Appropriates \$210,069 from the General Revenue Fund to implement the provisions of the act during FY 2006-07.

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on state government:

⁷ Section 212.08(5)(b)3.a.-c., F.S.

⁸ Section 212.08(5)(b)6.a., F.S.

	<u>2006-07</u>	<u>2007-08</u>
General Revenue	(19.7m)	(21.3m)
State Trust	(Insignificant)	(0.1m)
Total	<u>(19.7m)</u>	<u>(21.4m)</u>

2. Expenditures:

The bill provides an appropriation of \$210,069 from the General Revenue Fund and four positions are authorized to the Department of Revenue. Of the funds provided, \$191,825 are recurring and \$18,244 are nonrecurring.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on local governments:

	<u>2006-07</u>	<u>2007-08</u>
Revenue Sharing	(0.6m)	(0.7m)
Local Gov't. Half Cent	(1.9m)	(2.0m)
Local Option	<u>(1.9m)</u>	<u>(2.0m)</u>
Total Local Impact	(4.4m)	(4.7m)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Businesses engaged in certain activities that purchase industrial machinery and equipment to expand productive output by 10 percent will not be subject to any sales tax on the purchase of such equipment.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill will reduce the authority of counties to raise revenues in the aggregate through local option sales taxes by \$1.9 million, as estimated by the Revenue Estimating Conference. As such, the mandates provision appears to apply to this bill and it does not seem to qualify for an exemption. Therefore, the bill should have a 2/3 vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Revenue recommends technical amendments that revise the definition of "productive output," and add definitions for "new business," and "expanding business" or "expanding facility."

In addition, the Department recommends an increase in the appropriation required to fund its four authorized positions. The recurring costs for these positions are now estimated to be \$203,574, and the nonrecurring costs are now estimated to be \$19,372. This reflects a total increase of \$12,877 over the appropriation listed in the bill.

The Department also recommends changing the effective date to January 1, 2007, which will allow the Department sufficient time to properly inform all affected taxpayers about the changes in the exemptions.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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A bill to be entitled

An act relating to exemptions from the tax on sales, use, and other transactions; amending s. 212.08, F.S.; deleting an annual limitation on an exemption from the sales tax for certain machinery and equipment used to increase productive output; deleting an exemption for machinery and equipment used to expand certain printing manufacturing facilities or plant units; deleting a limitation on application of the exemption for machinery and equipment purchased for use in phosphate or other solid minerals severance, mining, or processing operations by way of a prospective credit; deleting an annual limitation on an exemption from the sales tax for certain machinery and equipment purchased under a federal procurement contract; repealing s. 212.0805, F.S., relating to qualifications for the exemption and credit for machinery and equipment purchased by an expanding business for use in phosphate or other solid minerals severance, mining, or processing operations; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (b) and (d) of subsection (5) of section 212.08, Florida Statutes, are amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the

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storage to be used or consumed in this state of the following
are hereby specifically exempt from the tax imposed by this
chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(b) Machinery and equipment used to increase productive
output.--

1. Industrial machinery and equipment purchased for
exclusive use by a new business in spaceport activities as
defined by s. 212.02 or for use in new businesses which
manufacture, process, compound, or produce for sale items of
tangible personal property at fixed locations are exempt from
the tax imposed by this chapter upon an affirmative showing by
the taxpayer to the satisfaction of the department that such
items are used in a new business in this state. Such purchases
must be made prior to the date the business first begins its
productive operations, and delivery of the purchased item must
be made within 12 months of that date.

2.~~a~~ Industrial machinery and equipment purchased for
exclusive use by an expanding facility which is engaged in
spaceport activities as defined by s. 212.02 or for use in
expanding manufacturing facilities or plant units which
manufacture, process, compound, or produce for sale items of
tangible personal property at fixed locations in this state are
exempt from any amount of tax imposed by this chapter ~~in excess~~
~~of \$50,000 per calendar year~~ upon an affirmative showing by the
taxpayer to the satisfaction of the department that such items
are used to increase the productive output of such expanded
facility or business by not less than 10 percent.

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~~b. Notwithstanding any other provision of this section, industrial machinery and equipment purchased for use in expanding printing manufacturing facilities or plant units that manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such an expanded business by not less than 10 percent.~~

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery and equipment pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail.

c. If, in a subsequent audit conducted by the department, it is determined that the machinery and equipment purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph or if commencement of production did not occur, the amount of taxes exempted at the

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time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall adopt rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery or equipment purchased or used by electric utility companies, communications companies, oil or gas exploration or production operations, publishing firms that do not export at least 50 percent of their finished product out of the state, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, or any firm which does not manufacture,

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process, compound, or produce for sale items of tangible personal property or which does not use such machinery and equipment in spaceport activities as required by this paragraph. The exemptions provided in subparagraphs 1. and 2. shall apply to machinery and equipment purchased for use in phosphate or other solid minerals severance, mining, or processing operations ~~only by way of a prospective credit against taxes due under chapter 211 for taxes paid under this chapter on such machinery and equipment.~~

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air-conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The term

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includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; provided, however, in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

(d) Machinery and equipment used under federal procurement contract.--

1. Industrial machinery and equipment purchased by an expanding business which manufactures tangible personal property pursuant to federal procurement regulations at fixed locations in this state are ~~partially~~ exempt from the tax imposed in this

chapter ~~on that portion of the tax which is in excess of~~
~~\$100,000 per calendar year~~ upon an affirmative showing by the
taxpayer to the satisfaction of the department that such items
are used to increase the implicit productive output of the
expanded business by not less than 10 percent. The percentage of
increase is measured as deflated implicit productive output for
the calendar year during which the installation of the machinery
or equipment is completed or during which commencement of
production utilizing such items is begun divided by the implicit
productive output for the preceding calendar year. In no case
may the commencement of production begin later than 2 years
following completion of installation of the machinery or
equipment.

2. The amount of the exemption allowed shall equal the
taxes otherwise imposed by this chapter ~~in excess of \$100,000~~
~~per calendar year~~ on qualifying industrial machinery or
equipment reduced by the percentage of gross receipts from cost -
reimbursement type contracts attributable to the plant or
operation to total gross receipts so attributable, accrued for
the year of completion or commencement.

3. The exemption provided by this paragraph shall inure to
the taxpayer only through refund of previously paid taxes. Such
refund shall be made within 30 days of formal approval by the
department of the taxpayer's application, which application may
be made on an annual basis following installation of the
machinery or equipment.

4. For the purposes of this paragraph, the term:

a. "Cost-reimbursement type contracts" has the same

meaning as in 32 C.F.R. s. 3-405.

b. "Deflated implicit productive output" means the product of implicit productive output times the quotient of the national defense implicit price deflator for the preceding calendar year divided by the deflator for the year of completion or commencement.

c. "Eligible costs" means the total direct and indirect costs, as defined in 32 C.F.R. ss. 15-202 and 15-203, excluding general and administrative costs, selling expenses, and profit, defined by the uniform cost-accounting standards adopted by the Cost-Accounting Standards Board created pursuant to 50 U.S.C. s. 2168.

d. "Implicit productive output" means the annual eligible costs attributable to all contracts or subcontracts subject to federal procurement regulations of the single plant or operation at which the machinery or equipment is used.

e. "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more, that qualifies as an eligible cost under federal procurement regulations, and that is used as an integral part of the process of production of tangible personal property. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air-conditioning systems are not industrial machinery and equipment

225 unless the sole justification for their installation is to meet
226 the requirements of the production process, even though the
227 system may provide incidental comfort to employees or serve, to
228 an insubstantial degree, nonproduction activities. The term
229 includes parts and accessories only to the extent that the
230 exemption of such parts and accessories is consistent with the
231 provisions of this paragraph.

232 f. "National defense implicit price deflator" means the
233 national defense implicit price deflator for the gross national
234 product as determined by the Bureau of Economic Analysis of the
235 United States Department of Commerce.

236 5. The exclusions provided in subparagraph (b)5. apply to
237 this exemption. This exemption applies only to machinery or
238 equipment purchased pursuant to production contracts with the
239 United States Department of Defense and Armed Forces, the
240 National Aeronautics and Space Administration, and other federal
241 agencies for which the contracts are classified for national
242 security reasons. In no event shall the provisions of this
243 paragraph apply to any expanding business the increase in
244 productive output of which could be measured under the
245 provisions of sub-subparagraph (b)6.b. as physically comparable
246 between the two periods.

247 Section 2. Section 212.0805, Florida Statutes, is
248 repealed.

249 Section 3. For the 2006-2007 fiscal year, the sum of
250 \$210,069 is appropriated from the General Revenue Fund and four
251 positions are authorized to the Department of Revenue for the
252 purpose of implementing the provisions of this act. Of the funds

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253 | provided, \$191,825 are recurring and \$18,244 are nonrecurring
 254 | funds.

255 | Section 4. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 69

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Finance & Tax Committee
Representative(s) Meadows offered the following:

Amendment

Between line(s) 23 and 24 insert:

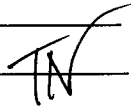

Section 1. This act may be cited as the "Florida
Manufacturing Global Competitiveness Act."

Section 2. Legislative findings and purpose.--The
Legislature finds that a competitive manufacturing business
climate is important given that the manufacturing sector
contributes significantly to the economy of this state, helping
it to weather natural and manmade disasters; that the
development of free-trade agreements with the Americas will
allow the state to be the gateway to increased international
trade that will expand the opportunities for manufacturing
exports, potentially add thousands of well-paying jobs in the
state, and secure Florida's place in emerging markets in the
world marketplace; and that with the potential for increasing
exports, an investment in manufacturing today will mean
significant long-term positive economic benefits to the state
tomorrow.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 415 Tax on Sales, Use, and Other Transactions
SPONSOR(S): Quinones and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 962

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Spaceport & Technology Committee</u>	<u>4 Y, 0 N</u>	<u>Whittier</u>	<u>Saliba</u>
2) <u>Finance & Tax Committee</u>	<u> </u>	<u>Noriega</u> 	<u>Diez-Arguelles</u> 
3) <u>State Infrastructure Council</u>	<u> </u>	<u> </u>	<u> </u>
4) <u> </u>	<u> </u>	<u> </u>	<u> </u>
5) <u> </u>	<u> </u>	<u> </u>	<u> </u>

SUMMARY ANALYSIS

This bill exempts machinery and equipment used predominantly for research and development activities, as well as machinery and equipment used by a space flight business in designing or creating a space flight vehicle or components of a space flight vehicle, from the state sales and use tax.

The bill provides definitions and procedures for administering this exemption. The Department of Revenue is authorized to promulgate rules to implement the amended sections.

The Revenue Estimating Conference has estimated that the provisions of this bill will reduce state revenues by \$26.9 million and local revenues by \$6.1 million in both FY 2006-2007 and FY 2007-2008.

The provisions of this bill reduce the authority that cities and counties have to raise revenue through local option sales taxes. The constitutional mandates provision described in subsection (b) of s. 18, Art. VII, State Constitution, may be applicable and this bill may require a two-thirds vote of the membership for passage.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: The bill exempts machinery and equipment used predominantly for research and development activities, as well as machinery and equipment used by a space flight business in designing or creating a space flight vehicle or components of a space flight vehicle, from the state sales and use tax.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Research and Development

Section 212.052(2), F.S., provides that any person, including an affiliated group,¹ who manufactures, produces, compounds, processes, or fabricates tangible personal property for the taxpayer's own use directly and solely in research or development shall not be subject to the tax imposed by chapter 212. This includes the cost of the manufactured, produced, compounded, processed, or fabricated product. However, taxes are due on the purchase, rental, or repair of real property or tangible personal property employed in research or development which is subject to the tax.

The term "research or development" is defined as research which has one of the following as its ultimate goal:

- Basic research in a scientific field of endeavor;
- Advancing knowledge or technology in a scientific field or technical field of endeavor;
- The development of a new product, whether or not the new product is offered for sale;
- The improvement of an existing product, whether or not the new or improved product is offered for sale;
- The development of new uses of an existing product, whether or not a new use is offered as a rationale to purchase the product; or
- The design and development of prototypes, whether or not a resulting product is offered for sale.

Research or development does not include ordinary testing or inspection of materials or products used for quality control, market research, efficiency or consumer surveys, advertising and promotions, management studies, or research in connection with literary, historical, social science, psychological, or other similar non-technical activities.²

The tax exemption does not apply to any product of research or development which is used in the ordinary course of business, other than for research or development, except and to the extent that the knowledge, technology, science, design, plan, patent, or understanding which is derived from the product of research or development is applied in the ordinary course of business. In addition, this section does not apply to any product of research or development that is tangible personal property which is offered for sale.

Section 212.08(5)(j), F.S., provides exemptions for machinery and equipment used in semiconductor (100 percent exemption), defense (25 percent exemption), or space (25 percent exemption) technology

¹ An "affiliated group" is generally defined as one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation.

² See s. 212.052(1)(a), F.S.

production and research and development (R & D) from sales tax on the following: sales, rental, use, consumption, distribution, and storage. Machinery and equipment includes molds, dies, machine tooling, other appurtenances or accessories to machinery and equipment, testing equipment, test beds, computers, and software, whether purchased or self-fabricated, and, if self-fabricated, includes materials and labor for design, fabrication, and assembly. "Predominately," where used, is defined as at least 50 percent of the time.

The two exemptions for the semiconductor industry are:

- Industrial machinery and equipment used in semiconductor technology facilities certified to manufacture, process, compound, or produce semiconductor technology products for sale or use by these facilities are exempt from the tax imposed by chapter 212, F.S.; and
- Machinery and equipment are exempt from the tax imposed by chapter 212, F.S., if used predominantly in semiconductor wafer research and development activities in a certified semiconductor technology research and development facility.

The two exemptions for the defense and space industries are:

- Industrial machinery and equipment used in defense or space technology facilities certified to manufacture, process, compound, or produce defense technology products or space technology products for sale or use by these facilities are exempt from 25 percent of the tax imposed by chapter 212, F.S.; and
- Machinery and equipment are exempt from 25 percent of the tax imposed by chapter 212, F.S., if used predominately in defense or space research and development activities in a certified defense or space technology research and development facility.

In all of the above cases, a business entity must apply to Enterprise Florida, Inc. (EFI), to certify that machinery and equipment purchased are used consistent with the requirements described above. Once the application is determined to be complete, EFI evaluates the application and recommends approval or disapproval of the application to the Office of Tourism, Trade, and Economic Development (OTTED) within 10 working days. Upon receipt, OTTED has 5 working days to certify those applicants who are found to meet the requirements of s. 212.08, F.S., and must notify the applicant, EFI, and the Department of Revenue of the certification. If OTTED determines that the applicant does not meet the requirements, it must notify the applicant and EFI within 10 working days that the certification application was denied, along with the reasons for denial.³

According to EFI, Florida's sales tax treatment of R & D equipment constitutes a distinct competitive disadvantage for manufacturers and other target industries in Florida, as many competitor states have either abolished or significantly reduced their sales tax on equipment used in R & D. EFI reports that the level of R & D activity in Florida is low relative to the size of its economy and that eliminating the sales and use tax on machinery and equipment used in R & D activities is key to encouraging expansion in two Florida industry sectors: the aviation/aerospace and biomedical industries. Also, eliminating the sales and use tax on R & D machinery and equipment is consistent with EFI's 2006 Strategic Plan for Economic Development.⁴

The Florida Chamber of Commerce, along with the Manufacturing Advisory Council, asserts that, "A missing ingredient to a successful business climate in the state is the elimination of the sales and use tax on R & D equipment. The elimination of this tax would encourage business investment and expansion, make Florida more competitive with other states and promote the creation of higher quality jobs for Floridians." The Chamber echoes EFI's claims that most of the states that are Florida's

³ See s. 212.08(5)(j)6., F.S.

⁴ *Roadmap to Florida's Future*, 2006 Annual Report, Enterprise Florida, Inc., p. 25.

competitors for recruiting and developing new businesses, such as California, Massachusetts, New York, Virginia, and Washington, have exempted or substantially discounted taxes on R & D equipment.⁵

Space Flight Business

Currently, there are no sales and use tax exemptions for machinery and equipment used by space flight businesses in designing or creating a space flight vehicle or components of a space flight vehicle. Section 212.031(1)(a)13., F.S., provides an exemption from the sales tax imposed on the rental of real property for property used for space flight business purposes. "Space flight business" is defined as the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight,⁶ or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto.

A number of developments in recent years are significantly affecting space enterprises in Florida. In January 2004, President Bush committed the United States to a long-term human and robotic program to explore the solar system, starting with a return to the Moon that will ultimately enable future exploration of Mars and other destinations. The President's plan envisions completion of the International Space Station, retirement of the Space Shuttle by 2010, and the introduction of a new Crew Exploration Vehicle (CEV).

The President's new vision has significant implications for Florida. More than half of Florida's current space-related activities are linked to the Space Shuttle and the International Space Station. The smaller CEV will require significantly fewer personnel at the Kennedy Space Center.

In June 2005, the Governor created the *Governor's Commission on the Future of Space and Aeronautics in Florida* (commission) to assess and make recommendations on how to strengthen Florida's role as a leader in space and aeronautics to maximize the economic development and job creation opportunities throughout the state.⁷ The commission's support of the space industry is exhibited in the *Executive Summary* of the final report:

During the next decade, Florida has the opportunity to broaden its existing leadership in civil and military launch activity, while also emerging as the nation's leader in new commercial space opportunities and the integration of space, aeronautics, and aviation technologies. If realized, this vision will position Florida for sustained economic growth and prosperity for decades to come. Attaining this vision will require a strong public and private commitment to a world-class space and aeronautics industry....Florida must capture a larger share of activity in aerospace research, technology, production, and commercial operations, while maintaining its historical leadership in space launch activities.⁸

The commission recommended increasing the sales and use tax exemptions for space and defense research, development, and production machinery and equipment from 25 to 100 percent.⁹ The Governor's FY 2005-06 Budget Recommendations also include this proposed policy.

Proposed Changes

The bill removes the exception from the exemption for the purchase, rental or repair of real property or tangible personal property employed in research or development to the tax exemption set forth in s.

⁵ *Where We Stand: Research and Development Tax Exemption*, Florida Chamber of Commerce.

⁶ Section 212.02(23), F.S., defines "space flight" as any flight designed for suborbital, orbital, or interplanetary travel of a space vehicle, satellite, or station of any kind.

⁷ See http://www.myflorida.com/myflorida/government/governorinitiatives/space_commission/05-120.html.

⁸ *Governor's Commission on the Future of Space and Aeronautics in Florida Final Report*, January 2006, pp. ES1-ES2.

⁹ *Governor's Commission on the Future of Space and Aeronautics in Florida Final Report*, January 2006, p. 3-15.

212.052(2), F.S. Removing this exception ensures that s. 212.052(2), F.S., does not conflict with the proposed machinery and equipment sales and use tax exemption created by Section 2 of the bill.

The bill provides a sales tax exemption for machinery and equipment used predominantly for research and development. The bill also exempts from the state sales and use tax, machinery and equipment used by a space flight business in designing or creating a space flight vehicle or components of a space flight vehicle. The bill defines "predominantly" as at least 50 percent of the time.

The bill defines "machinery and equipment" to include, but not be limited to, molds, dies, machine tooling, and other appurtenances or accessories to machinery and equipment, testing and measuring equipment, test beds, computers, and software, whether purchased or self-fabricated, and, if self-fabricated, includes materials and labor for design, fabrication, and assembly. The term "other appurtenances or accessories" is not defined in the bill.

The bill also defines the term "research and development," using the current definition contained in s. 212.052(1), F.S. (See *Present Situation* section).

The bill provides an administrative procedure for a purchaser of machinery and equipment to claim the sales and use tax exemption. The purchaser must furnish the vendor with an affidavit stating that the machinery and equipment will be used predominantly for R & D activities. Persons claiming the exemption by refund must include the affidavit with the refund application. Any person who fraudulently furnishes an affidavit is subject to a mandatory penalty of 200 percent of the tax, payment of the tax itself, a fine of up to \$5,000, and a term of imprisonment of up to five years.¹⁰

C. SECTION DIRECTORY:

Section 1. Amends s. 212.052(2), F.S.; deletes an exception to a tax exemption.

Section 2. Amends s. 212.08(5), F.S.; adds sales and use tax exemptions for machinery and equipment used predominantly for research and development or by a space flight business in designing or creating a space flight vehicle or components of a space flight vehicle.

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimates that the provisions of this bill will have the following impact on state revenues:

	FY 2006-07	FY 2007-08
General Revenue	(\$24.6) million	(\$26.8) million
State Trust	(\$0.1) million	(\$0.1) million
Total State Impact	(\$24.7) million	(\$26.9) million

2. Expenditures:

The Department of Revenue estimates the following state government expenditures:

¹⁰ Section 212.085, F.S.

	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10
Recurring	\$43,262	\$55,548	\$55,548	\$55,548
FTE	1			
Salaries	\$36,859	\$49,145	\$49,145	\$49,145
Expenses	\$6,403	\$6,403	\$6,403	\$6,403
Non-Recurring	\$4,843			
Expenses	\$3,343			
OCO	\$1,500			
Total	\$48,105	\$55,548	\$55,548	\$55,548

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimates that the provisions of this bill will have the following impact on local revenues:

	FY 2006-07	FY 2007-08
Total Local Impact	(\$5.6) million	(\$6.1) million

2. Expenditures:

The bill is not expected to have an effect on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill reduces the tax burden on businesses purchasing machinery and equipment used predominately for R & D and space flight businesses designing or creating a space flight vehicle and its components.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision may apply to this bill because it reduces the authority that cities and counties have to raise revenues, in the aggregate, through local option sales taxes. Therefore, no exemption applies and this bill may require a two-thirds vote of the membership for passage.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the Department of Revenue with authority to adopt rules that provide for administering and implementing the exemption.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Revenue indicates that the lack of a definition for “other appurtenances or accessories” may cause problems when implementing and administering the law’s provisions.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

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1 A bill to be entitled

2 An act relating to the tax on sales, use, and other
3 transactions; amending s. 212.052, F.S.; deleting an
4 exception to an exemption from the tax for research or
5 development costs; amending s. 212.08, F.S.; exempting
6 machinery and equipment used predominantly for research
7 and development activities or by a space flight business;
8 providing definitions; authorizing the Department of
9 Revenue to adopt rules administering and implementing the
10 exemption; providing requirements and procedures for
11 claiming the exemption; requiring an affidavit to be given
12 by a taxpayer claiming entitlement to the exemption;
13 providing penalties for fraudulently claiming the
14 exemption; providing recordkeeping requirements; providing
15 an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsection (2) of section 212.052, Florida
20 Statutes, is amended to read:

21 212.052 Research or development costs; exemption. --

22 (2) Notwithstanding any provision of this chapter to the
23 contrary, any person, including an affiliated group as defined
24 in s. 1504 of the Internal Revenue Code of 1954, as amended, who
25 manufactures, produces, compounds, processes, or fabricates in
26 any manner tangible personal property for such taxpayer's own
27 use directly and solely in research or development shall not be
28 subject to the tax imposed by this chapter upon the cost of the

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product so manufactured, produced, compounded, processed, or fabricated. ~~However, the tax imposed by this chapter shall be due on the purchase, rental, or repair of real property or tangible personal property employed in research or development which is subject to the tax imposed by this chapter at the time of purchase or rental.~~

Section 2. Paragraph (r) is added to subsection (5) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(r) Machinery and equipment used predominantly for research and development or by a space flight business.--

1. Machinery and equipment used predominantly for research and development or by a space flight business as defined in s. 212.031(1)(a)13. in designing or creating a space flight vehicle or components of a space flight vehicle are exempt from the tax imposed by this chapter.

2. For purposes of this paragraph:

a. "Machinery and equipment" includes, but is not limited to, molds, dies, machine tooling, other appurtenances or accessories to machinery and equipment, testing and measuring equipment, test beds, computers, and software, whether purchased or self-fabricated, and, if self-fabricated, includes materials

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and labor for design, fabrication, and assembly.

b. "Predominantly" means at least 50 percent of the time.

c. "Research and development" means research that has one of the following as its ultimate goal:

(I) Basic research in a scientific field of endeavor;

(II) Advancing knowledge or technology in a scientific or technical field of endeavor;

(III) The development of a new product, whether or not the new product is offered for sale;

(IV) The improvement of an existing product, whether or not the improved product is offered for sale;

(V) The development of new uses of an existing product, whether or not a new use is offered as a rationale to purchase the product; or

(VI) The design and development of prototypes, whether or not a resulting product is offered for sale.

The term "research and development" does not include ordinary testing or inspection of materials or products used for quality control, market research, efficiency surveys, consumer surveys, advertising and promotions, management studies, or research in connection with literary, historical, social science, psychological, or other similar nontechnical activities.

3. The department may adopt rules that provide for administering and implementing this exemption.

4. A person who claims the exemption provided in this paragraph shall furnish the vendor of the machinery or equipment, including the vendor of materials and labor used in

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85 self-fabrication of the machinery or equipment, an affidavit
86 stating that the item or items for which an exemption is claimed
87 are machinery and equipment that will be used predominantly for
88 research and development or by a space flight business as
89 required by this paragraph. A purchaser who claims the exemption
90 by refund shall include the affidavit with the refund
91 application. The affidavit must contain the purchaser's name,
92 address, sales and use tax registration number, and, if
93 applicable, federal employer's identification number. Any person
94 fraudulently furnishing an affidavit to the vendor for the
95 purpose of evading payment of any tax imposed under this chapter
96 shall be subject to the penalty set forth in s. 212.085 and as
97 otherwise provided by law.

98 5. In lieu of furnishing an affidavit, a purchaser
99 claiming the exemption provided in this paragraph who has a
100 direct-pay permit may furnish the vendor with a copy of the
101 direct-pay permit and shall maintain all documentation necessary
102 to prove the exempt status of the purchases and fabrication
103 activity.

104 6. Purchasers shall maintain all documentation necessary
105 to prove the exempt status of purchases and fabrication activity
106 and make such documentation available for inspection pursuant to
107 the requirements of s. 212.13(2).

108 Section 3. This act shall take effect July 1, 2006.

Amendment No. (1)

COUNCIL/COMMITTEE ACTION

ADOPTED	_____ (Y/N)
ADOPTED AS AMENDED	_____ (Y/N)
ADOPTED W/O OBJECTION	_____ (Y/N)
FAILED TO ADOPT	_____ (Y/N)
WITHDRAWN	_____ (Y/N)
OTHER	_____

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (2) of section 212.052, Florida Statutes, is amended to read:

212.052 Research or development costs; exemption.--

(2) Notwithstanding any provision of this chapter to the contrary, any person, including an affiliated group as defined in s. 1504 of the Internal Revenue Code of 1954, as amended, who manufactures, produces, compounds, processes, or fabricates in any manner tangible personal property for such taxpayer's own use directly and solely in research or development shall not be subject to the tax imposed by this chapter upon the cost of the product so manufactured, produced, compounded, processed, or fabricated. ~~However, the tax imposed by this chapter shall be due on the purchase, rental, or repair of real property or tangible personal property employed in research or development which is subject to the tax imposed by this chapter at the time of purchase or rental.~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

22 Section 2. Paragraph (j) of subsection (5) is amended and
23 subsection (18) is added to section 212.08, Florida Statutes, to
24 read:

25 212.08 Sales, rental, use, consumption, distribution, and
26 storage tax; specified exemptions.--The sale at retail, the
27 rental, the use, the consumption, the distribution, and the
28 storage to be used or consumed in this state of the following
29 are hereby specifically exempt from the tax imposed by this
30 chapter.

31 (5) EXEMPTIONS; ACCOUNT OF USE.--

32 (j) Machinery and equipment used in semiconductor,
33 defense, or space technology production ~~and research and~~
34 ~~development~~.--

35 1.a. Industrial machinery and equipment used in
36 semiconductor technology facilities certified under subparagraph
37 56. to manufacture, process, compound, or produce semiconductor
38 technology products for sale or for use by these facilities are
39 exempt from the tax imposed by this chapter. For purposes of
40 this paragraph, industrial machinery and equipment includes
41 molds, dies, machine tooling, other appurtenances or accessories
42 to machinery and equipment, testing equipment, test beds,
43 computers, and software, whether purchased or self-fabricated,
44 and, if self-fabricated, includes materials and labor for
45 design, fabrication, and assembly.

46 b. Industrial machinery and equipment used in defense or
47 space technology facilities certified under subparagraph 56. to
48 design, manufacture, assemble, process, compound, or produce
49 defense technology products or space technology products for
50 sale or for use by these facilities are exempt from ~~25-percent~~
51 ~~of~~ the tax imposed by this chapter.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

52 ~~2.a. Machinery and equipment are exempt from the tax~~
53 ~~imposed by this chapter if used predominately in semiconductor~~
54 ~~wafer research and development activities in a semiconductor~~
55 ~~technology research and development facility certified under~~
56 ~~subparagraph 6. For purposes of this paragraph, machinery and~~
57 ~~equipment includes molds, dies, machine tooling, other~~
58 ~~appurtenances or accessories to machinery and equipment, testing~~
59 ~~equipment, test beds, computers, and software, whether purchased~~
60 ~~or self fabricated, and, if self fabricated, includes materials~~
61 ~~and labor for design, fabrication, and assembly.~~

62 ~~b. Machinery and equipment are exempt from 25 percent of~~
63 ~~the tax imposed by this chapter if used predominately in defense~~
64 ~~or space research and development activities in a defense or~~
65 ~~space technology research and development facility certified~~
66 ~~under subparagraph 6.~~

67 23. Building materials purchased for use in manufacturing
68 or expanding clean rooms in semiconductor-manufacturing
69 facilities are exempt from the tax imposed by this chapter.

70 34. In addition to meeting the criteria mandated by
71 subparagraph 1. or, subparagraph 2., ~~or subparagraph 3.~~, a
72 business must be certified by the Office of Tourism, Trade, and
73 Economic Development as authorized in this paragraph in order to
74 qualify for exemption under this paragraph.

75 45. For items purchased tax exempt pursuant to this
76 paragraph, possession of a written certification from the
77 purchaser, certifying the purchaser's entitlement to exemption
78 pursuant to this paragraph, relieves the seller of the
79 responsibility of collecting the tax on the sale of such items,
80 and the department shall look solely to the purchaser for
81 recovery of tax if it determines that the purchaser was not
82 entitled to the exemption.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

83 56.a. To be eligible to receive the exemption provided by
84 subparagraph 1. or, subparagraph 2., ~~or subparagraph 3.~~, a
85 qualifying business entity shall apply to Enterprise Florida,
86 Inc. The application shall be developed by the Office of
87 Tourism, Trade, and Economic Development in consultation with
88 Enterprise Florida, Inc.

89 b. Enterprise Florida, Inc., shall review each submitted
90 application and information and determine whether or not the
91 application is complete within 5 working days. Once an
92 application is complete, Enterprise Florida, Inc., shall, within
93 10 working days, evaluate the application and recommend approval
94 or disapproval of the application to the Office of Tourism,
95 Trade, and Economic Development.

96 c. Upon receipt of the application and recommendation from
97 Enterprise Florida, Inc., the Office of Tourism, Trade, and
98 Economic Development shall certify within 5 working days those
99 applicants who are found to meet the requirements of this
100 section and notify the applicant, Enterprise Florida, Inc., and
101 the department of the certification. If the Office of Tourism,
102 Trade, and Economic Development finds that the applicant does
103 not meet the requirements of this section, it shall notify the
104 applicant and Enterprise Florida, Inc., within 10 working days
105 that the application for certification has been denied and the
106 reasons for denial. The Office of Tourism, Trade, and Economic
107 Development has final approval authority for certification under
108 this section.

109 67.a. A business may apply once each year for the
110 exemption.

111 b. The application must indicate, for program evaluation
112 purposes only, the average number of full-time equivalent
113 employees at the facility over the preceding calendar year, the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

114 average wage and benefits paid to those employees over the
115 preceding calendar year, the total investment made in real and
116 tangible personal property over the preceding calendar year, and
117 the total value of tax-exempt purchases and taxes exempted
118 during the previous year. The department shall assist the Office
119 of Tourism, Trade, and Economic Development in evaluating and
120 verifying information provided in the application for exemption.

121 c. The Office of Tourism, Trade, and Economic Development
122 may use the information reported on the application for
123 evaluation purposes only and shall prepare an annual report on
124 the exemption program and its cost and impact. The annual report
125 for the preceding fiscal year shall be submitted to the
126 Governor, the President of the Senate, and the Speaker of the
127 House of Representatives by September 30 of each fiscal year.

128 78. A business certified to receive this exemption may
129 elect to designate one or more state universities or community
130 colleges as recipients of up to 100 percent of the amount of the
131 exemption for which they may qualify. To receive these funds,
132 the institution must agree to match the funds so earned with
133 equivalent cash, programs, services, or other in-kind support on
134 a one-to-one basis in the pursuit of research and development
135 projects as requested by the certified business. The rights to
136 any patents, royalties, or real or intellectual property must be
137 vested in the business unless otherwise agreed to by the
138 business and the university or community college.

139 89. As used in this paragraph, the term:

140 a. ~~"Predominately" means at least 50 percent of the time~~
141 ~~in qualifying research and development.~~

142 b. ~~"Research and development" means basic and applied~~
143 ~~research in the science or engineering, as well as the design,~~
144 ~~development, and testing of prototypes or processes of new or~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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145 ~~improved products. Research and development does not include~~
146 ~~market research, routine consumer product testing, sales~~
147 ~~research, research in the social sciences or psychology,~~
148 ~~nontechnological activities, or technical services.~~

149 ae. "Semiconductor technology products" means raw
150 semiconductor wafers or semiconductor thin films that are
151 transformed into semiconductor memory or logic wafers, including
152 wafers containing mixed memory and logic circuits; related
153 assembly and test operations; active-matrix flat panel displays;
154 semiconductor chips; semiconductor lasers; optoelectronic
155 elements; and related semiconductor technology products as
156 determined by the Office of Tourism, Trade, and Economic
157 Development.

158 bd. "Clean rooms" means manufacturing facilities enclosed
159 in a manner that meets the clean manufacturing requirements
160 necessary for high-technology semiconductor-manufacturing
161 environments.

162 ce. "Defense technology products" means products that have
163 a military application, including, but not limited to, weapons,
164 weapons systems, guidance systems, surveillance systems,
165 communications or information systems, munitions, aircraft,
166 vessels, or boats, or components thereof, which are intended for
167 military use and manufactured in performance of a contract with
168 the United States Department of Defense or the military branch
169 of a recognized foreign government or a subcontract thereunder
170 which relates to matters of national defense.

171 df. "Space technology products" means products that are
172 specifically designed or manufactured for application in space
173 activities, including, but not limited to, space launch
174 vehicles, space flight vehicles, missiles, satellites or
175 research payloads, avionics, and associated control systems and

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Amendment No. (1)

processing systems, and components of any of the foregoing. The term does not include products that are designed or manufactured for general commercial aviation or other uses even though those products may also serve an incidental use in space applications.

(18) MACHINERY AND EQUIPMENT USED PREDOMINANTLY FOR RESEARCH AND DEVELOPMENT.--

(a) Machinery and equipment used predominantly for research and development as defined in this subsection are exempt from the tax imposed by this chapter.

(b) For purposes of this subsection, the term:

1. "Machinery and equipment" includes, but is not limited to, molds, dies, machine tooling, other appurtenances or accessories to machinery and equipment, testing and measuring equipment, test beds, computers, and software, whether purchased or self-fabricated, and, if self-fabricated, includes materials and labor for design, fabrication, and assembly.

2. "Predominantly" means at least 50 percent of the time.

3. "Research and development" means research that has one of the following as its ultimate goal:

a. Basic research in a scientific field of endeavor;

b. Advancement of knowledge or technology in a scientific or technical field of endeavor;

c. The development of a new product, whether or not the new product is offered for sale;

d. The improvement of an existing product, whether or not the improved product is offered for sale;

e. The development of new uses of an existing product, whether or not a new use is offered as a rationale to purchase the product; or

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206 f. The design and development of prototypes, whether or
207 not a resulting product is offered for sale.

208
209 The term "research and development" does not include ordinary
210 testing or inspection of materials or products used for quality
211 control, market research, efficiency surveys, consumer surveys,
212 advertising and promotions, management studies, or research in
213 connection with literary, historical, social science,
214 psychological, or other similar nontechnical activities.

215 (c) The department may adopt rules that provide for the
216 implementation of this exemption.

217 (d) A person who claims the exemption provided in this
218 subsection shall furnish the vendor of the machinery or
219 equipment, including the vendor of materials and labor used in
220 self-fabrication of the machinery or equipment, an affidavit
221 stating that the item or items for which an exemption is claimed
222 are machinery and equipment that will be used predominantly for
223 research and development as required by this subsection. A
224 purchaser who claims the exemption by refund shall include the
225 affidavit with the application for a refund. The affidavit must
226 contain the purchaser's name, address, sales and use tax
227 registration number, and, if applicable, federal employer's
228 identification number. A person who fraudulently furnishes an
229 affidavit to the vendor or to the department for the purpose of
230 evading payment of any tax imposed under this chapter is subject
231 to the penalty set forth in s. 212.085 and as otherwise provided
232 by law.

233 (e) In lieu of furnishing an affidavit, a purchaser
234 claiming the exemption provided in this subsection who has a
235 direct-pay permit may furnish the vendor with a copy of the
236 direct-pay permit and shall maintain all documentation necessary

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to prove the exempt status of the purchases and fabrication
activity.

(f) Purchasers must maintain all documentation necessary
to prove the exempt status of purchases and fabrication activity
and make such documentation available for inspection pursuant to
s. 212.13(2).

Section 3. This act shall take effect July 1, 2006.

===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

A bill to be entitled
An act relating to the tax on sales, use, and other
transactions; amending s. 212.052, F.S.; deleting an
exception to an exemption from the tax for research or
development costs; amending s. 212.08, F.S.; deleting
references to research and development; deleting
definitions; exempting machinery and equipment used
predominantly for research and development activities;
providing definitions; authorizing the Department of
Revenue to adopt rules administering and implementing the
exemption; providing requirements and procedures for
claiming the exemption; requiring an affidavit to be given
by a taxpayer claiming entitlement to the exemption;
providing penalties for fraudulently claiming the
exemption; providing recordkeeping requirements; providing
an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 573 Disabled Veterans
SPONSOR(S): Bilirakis and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1342

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Military & Veteran Affairs Committee</u>	<u>7 Y, 0 N</u>	<u>Marino</u>	<u>Cutchins</u>
2) <u>Local Government Council</u>	<u>8 Y, 0 N</u>	<u>Smith</u>	<u>Hamby</u>
3) <u>Finance & Tax Committee</u>	<u> </u>	<u>Rice</u> <i>ACK</i>	<u>Diez-Arguelles</u> <i>[Signature]</i>
4) <u>State Administration Council</u>	<u> </u>	<u> </u>	<u> </u>
5) <u> </u>	<u> </u>	<u> </u>	<u> </u>

SUMMARY ANALYSIS

Under current law, totally disabled veterans as defined under s. 295.16, F.S., are exempt from local government license and permit fees associated with making a mobile home owned by the veteran wheelchair accessible.

This bill expands the exemption to include any dwelling owned by the veteran and used as a residence.

The Revenue Estimating Conference has not produced an estimate of this bill. The fiscal impact on local government revenues is expected to be negative and insignificant.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes—This bill provides 100-percent, service-connected permanently and totally disabled veterans confined to wheelchairs an exemption on any license or permit fee to make improvement on their residence.

Safeguard individual liberty—This bill reduces the costs associated with making wheelchair accessibility improvements to a permanently and totally disabled veteran's home

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Building Code

Section 553.79, F.S. requires that any person or organization seeking to construct, modify, or demolish a building in Florida must obtain a permit from the appropriate Florida Building Code enforcing agency. Local governments, under ss. 125.56, 166.222, and 553.80 are charged with regulating building construction and are authorized to charge reasonable permit fees to defray building regulation, enforcement, and administrative costs. In the case of remodeling permits, the fee structure generally includes a base or application fee, plus an additional amount based on the construction value of the remodeling project. The table below shows current remodeling permit fee valuations from a county and a municipality:

Remodeling Permit Fees			
Broward County	City of Tallahassee		
Minimum base permit fee \$111 added to a charge calculated at a rate of 1.60% of the remodeling job construction value.	Construction Value	Application Fee	Valuation Fee
	\$10,000 or less	\$60	\$14/\$1000
	50K or less	240	1.20/1000
	100K or less	288	0.38/1000
	Over 100K	326	0.38/1000

License and Fee Exemption

Section 295.16, F.S., allows veterans to be exempt from paying building license or permit fees to any county or municipality for wheelchair accessibility improvements made upon a mobile home, provided the following criteria are met:

- The veteran must be a resident of Florida;
- The veteran must be permanently and totally disabled and be able to show:
 - A valid identification card issued by the Florida Department of Veterans' Affairs under s. 295.17, F.S.;
 - A service-connected 100-percent disability rating for compensation as determined by the United States Department of Veterans' Affairs; or
 - A disability retirement pay receipt from any branch of the uniformed armed services for a 100-percent, service-connected disability rating;
- The veteran must be honorably discharged from the Armed Forces;
- The veteran must own and reside in the mobile home for which the improvements are being made; and
- The veteran may only make improvements to his or her mobile home such as adding ramps, widening doorways, and similar improvements for the purpose of making the mobile home wheelchair-habitable.

Typical improvements or alterations that may need to be made in order to make a mobile home more habitable for an eligible wheelchair-confined veteran include, but are not limited to:

- Outside: ramps, railings, primary entrance with widened doorway into home;
- Inside: ramps, railings, widened doorways, lowered countertops, wheelchair turning space, wheelchair lifts, toilet and bathing facilities, clear floor space to reach appliances.

Section 295.16, F.S., does not restrict the number of wheelchair accessibility improvements allowed, the number of times improvements may be made to the mobile home, or the number of mobile home residences owned by the veteran that may be altered.

Disabled Veteran ID Card and License Plate

Section 295.17, F.S., provides that the Florida Department of Veterans' Affairs (DVA) may issue a photo-identification card to any veteran who is a permanent resident of the state and who has been determined by the U.S. Department of Veterans' Affairs (USDVA) or its predecessor to have a 100-percent, service-connected permanent and total disability rating for compensation, or who has been determined to have a service-connected disability rating of 100-percent and is in receipt of disability retirement pay from any branch of the uniformed armed services. The ID card eligible veteran may request the card in writing to the DVA, and, upon its receipt, the veteran may use the card as proof of identification for all benefits provided by state law for 100-percent, service-connected permanently and totally disabled veterans, except for certain benefits relating to property tax exemptions.

Under s. 320.084(2), F.S., a veteran who produces a DVA ID card, as provided for in s. 295.17, F.S., to the Florida Department of Highway Safety and Motor Vehicles (DHSMV) must be issued one free motor vehicle license plate for use on any motor vehicle owned or leased by the veteran.

Effect of Proposed Change:

The bill increases the type of residences eligible for the permit fee exemption in s. 295.16, F.S. In addition to mobile homes, eligible disabled veterans may also apply this exemption to any dwelling they own.

The provisions of this bill will enable a larger population of eligible, disabled veterans to take advantage of the existing fee exemption, reducing the costs that they are obligated to pay in order to make their homes wheelchair accessible.

This bill does not place any restrictions on the number of wheelchair accessibility improvements allowed nor does it appear to place any restrictions on the number of times improvements may be made to the dwelling.

C. SECTION DIRECTORY:

Section 1. Amends s. 295.16, F.S., relating to disabled veterans; replacing "mobile home" with "dwelling".

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The fiscal impact on local government revenues is expected to be negative and insignificant. The Revenue Estimating Conference has not met on this issue.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because this bill reduces revenue raising authority; however, an exemption applies. The number of applicable veterans likely to utilize the license and permit fee exemptions is expected to be minimal. Therefore, the fiscal impact is expected to be insignificant and the bill is exempt from the mandates provision.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None

HB 573

2006

A bill to be entitled

An act relating to disabled veterans; amending s. 295.16, F.S.; expanding exemption from certain fees relating to structural improvements to a disabled veteran's residence; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 295.16, Florida Statutes, is amended to read:

295.16 Disabled veterans exempt from certain license or permit fee.--No totally and permanently disabled veteran who is a resident of Florida and honorably discharged from the Armed Forces, who has been issued a valid identification card by the Department of Veterans' Affairs in accordance with s. 295.17 or has been determined by the United States Department of Veterans Affairs or its predecessor to have a service-connected 100-percent disability rating for compensation, or who has been determined to have a service-connected disability rating of 100 percent and is in receipt of disability retirement pay from any branch of the uniformed armed services, shall be required to pay any license or permit fee, by whatever name known, to any county or municipality in order to make improvements upon a dwelling ~~mobile home~~ owned by the veteran which is used as the veteran's residence, provided such improvements are limited to ramps, widening of doors, and similar improvements for the purpose of making the dwelling ~~mobile home~~ habitable for veterans confined to wheelchairs.

HB 573

2006

29 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 615 Professional Sports Franchises
SPONSOR(S): Simmons
TIED BILLS: **IDEN./SIM. BILLS:** SB 1426

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Tourism Committee</u>	<u>7 Y, 0 N</u>	<u>Langston</u>	<u>McDonald</u>
2) <u>Finance & Tax Committee</u>	<u></u>	<u>Rice</u> <i>ACK</i>	<u>Diez-Arguelles</u> <i>[Signature]</i>
3) <u>State Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The Governor's Office of Tourism, Trade, and Economic Development (OTTED) is authorized under s. 288.1162, F.S., to certify up to eight applicants as a facility for a new or retained professional sports franchise. Currently, the following seven applicants have been certified: Broward County for Home Depot Stadium (Panthers); Joe Robbie, Inc., for Pro Player Stadium (Marlins); City of Jacksonville for Alltel Stadium (Jaguars); Tampa Bay Sports Authority for St. Pete Times Forum (Tampa Bay Lightning); City of St. Petersburg for Tropicana Field (Tampa Bay Devil Rays); BPL, Ltd., for American Airlines Arena (Miami Heat); and, Hillsborough County for Raymond James Stadium (Tampa Bay Buccaneers).

The Department of Revenue (DOR) is required to distribute monthly \$166,667 (\$2 million annually) of tax proceeds collected under ch. 212, F.S., for no more than 30 years, to each applicant certified as a facility for a new or retained professional sports franchise by OTTED as meeting specific requirements outlined in s. 288.1162, F.S. Funds distributed can be used only for the public purposes delineated in s. 288.1162(6), F.S.

The bill requires that the remaining eighth certification for an applicant as a facility for a new professional sports franchise or a facility for a retained professional sports franchise under s. 288.1162, F.S., must be for a franchise that is a member of the National Basketball Association that has been located in the state since 1987, and has not been previously certified. The requirement is repealed on July 1, 2010.

The only franchise in the state that qualifies as an applicant for the eighth certification under the bill is the Orlando Magic.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the house principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Facilities for New and Retained Professional Franchises

Certification

Section 288.1162, F.S. charges the Governor's Office of Tourism, Trade, and Economic Development (OTTED) with the authority to certify up to eight applicants as facilities for new or retained professional sports franchises. A "new professional sports franchise" is a professional sports franchise that is not based in this state prior to April 1, 1987 and a "retained professional sports franchise" is a professional sports franchise that has had a league-authorized location in this state on or before December 31, 1976, has continuously remained at that location, and has never been located at a previously certified facility."¹

To qualify an applicant for certification as either a facility for a "new professional sports franchise" or a "facility for a retained professional sports franchise," the following criteria must be satisfied:

- The applicant is a unit of local government or a private entity; however, a local government must be responsible for the construction, management, or operation of the facility or must hold the title to the property on which the professional sports franchise facility is located;
- The franchise has agreed to use the facility for 10 or 20 years depending on the type of franchise;
- The governing league approves;
- The projections indicate 300,000 in paid annual attendance;
- The tax revenues generated will equal or exceed \$2 million annually;
- The local government certifies that the facility serves a public purpose;
- The applicant is capable of providing more than 50% of costs incurred or related to the improvement and development of the facility; and,
- The applicant has not been previously certified and received funds for that certification.

Currently, the following seven applicants/facilities have been certified:

1. Broward Co. for Home Depot Stadium (Panthers),
2. Joe Robbie, Inc., for Pro Player Stadium (Marlins),
3. City of Jacksonville for Alltel Stadium (Jaguars),
4. Tampa Bay Sports Authority for St. Pete Times Forum (Tampa Bay Lightning),
5. City of St. Petersburg for Tropicana Field (Tampa Bay Devil Rays),
6. BPL, Ltd., for American Airlines Arena (Miami Heat), and
7. Hillsborough County for Raymond James Stadium (Tampa Bay Buccaneers).

¹ See s. 288.1162(3)(a) and (b), F.S. The Miami Dolphins is the only team in the state that does not qualify under either definition. The only team eligible under the definition of "retained professional sports franchise" is the Tampa Bay Buccaneers.

Funding

Once an applicant is certified, OTTED notifies the Department of Revenue (DOR) pursuant to s. 288.1162(6), F.S., that the certified applicant qualifies for state funding.

DOR is authorized to distribute funds under ch. 212, F.S. relating to the state sales and use taxes and s. 202.18(1)(b) and 202.18(2)(b), F.S. relating to the communication services tax. Section 212.20(6)(d)7.b., F.S., requires DOR to distribute \$166,667 monthly (\$2 million annually) to each certified applicant for no more than 30 years.

Funds received can only be used for the public purposes listed under s. 288.1161(6), F.S. The public purpose listed in the section is to pay for the acquisition, construction, reconstruction, or renovation of a professional sports, retained professional sports, or retained spring training franchise facility, or to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, bonds issued for the acquisition, construction, reconstruction, or renovation of the facility, including reimbursement of costs and financing for such purposes.

DOR may audit the facilities to verify that the distributions have been spent for the public purposes required by s. 288.1162(6), F.S. If DOR determines that the funds have not been used as required, it may pursue recovery of the funds.

Effect of Proposed Changes

The bill designates the eighth remaining certification for an applicant as a facility for a new professional sports franchise or a facility for a retained professional sports franchise to be for a franchise which is a member of the National Basketball Association, and that has been located in the state since 1987, and has not been previously certified. The designation is repealed July 1, 2010.

The only franchise in the state meeting the criteria is the Orlando Magic.

C. SECTION DIRECTORY:

Section 1: Amends s. 288.1162, F.S., relating to professional sports franchises and spring training franchises; designates the eighth certification for a specific applicant; repeals designation requirement on July 1, 2000.

Section 2: Provides for an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None
2. Expenditures:
None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

This bill does not have a fiscal impact because the Orlando Magic meets the definition of a "new professional sports franchise" and could be the franchise used by an applicant to qualify for state funds under current law.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None

HB 615

2006

1 A bill to be entitled

2 An act relating to professional sports franchises;
3 amending s. 288.1162, F.S.; providing additional
4 requirements with respect to certification as a facility
5 for a new professional sports franchise or a facility for
6 a retained professional sports franchise; providing for
7 repeal of the requirements by a specified date; providing
8 an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (7) of section 288.1162, Florida
13 Statutes, is amended to read:

14 288.1162 Professional sports franchises; spring training
15 franchises; duties.--

16 (7) (a) The Office of Tourism, Trade, and Economic
17 Development shall notify the Department of Revenue of any
18 facility certified as a facility for a new professional sports
19 franchise or a facility for a retained professional sports
20 franchise or as a facility for a retained spring training
21 franchise. The Office of Tourism, Trade, and Economic
22 Development shall certify no more than eight facilities as
23 facilities for a new professional sports franchise or as
24 facilities for a retained professional sports franchise and
25 shall certify at least five as facilities for retained spring
26 training franchises, including in such total any facilities
27 certified by the Department of Commerce before July 1, 1996. The
28 office may make no more than one certification for any facility.

HB 615

2006

29 The office may not certify funding for less than the requested
30 amount to any applicant certified as a facility for a retained
31 spring training franchise.

32 (b) The eighth certification of an applicant under this
33 section as a facility for a new professional sports franchise or
34 a facility for a retained professional sports franchise shall be
35 for a franchise that is a member of the National Basketball
36 Association, has been located within the state since 1987, and
37 has not been previously certified. This paragraph is repealed
38 July 1, 2010.

39 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 631

World War II Permanently Disabled Veterans' Discount on Homestead

Ad Valorem Tax

SPONSOR(S): Sansom and others

TIED BILLS:

IDEN./SIM. BILLS: SJR 194

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Military & Veteran Affairs Committee</u>	<u>7 Y, 0 N</u>	<u>Marino</u>	<u>Cutchins</u>
2) <u>Finance & Tax Committee</u>	<u></u>	<u>Monroe</u> <i>KSM</i>	<u>Diez-Arguelles</u> <i>[Signature]</i>
3) <u>State Administration Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

House Joint Resolution 631, if approved by the electorate, would allow certain disabled veterans of World War II to receive a discount from the amount of the ad valorem tax otherwise owed on homestead property. In order to qualify for this discount, the World War II veteran must demonstrate:

- He or she was a Florida resident at the time of entering the military service;
- The disability was combat-related; and
- The veteran was honorably discharged upon separation from military service.

The amount of the discount is a percentage equal to the percentage of the veteran's permanent, combat-related disability, as determined by the U.S. Department of Veterans Affairs. For example, a veteran with a 70 percent disability would receive a 70 percent discount on their ad valorem tax bill.

The Division of Elections estimates the cost to the state to be approximately \$50,000 to meet constitutional requirements to publish this joint resolution to the electorate. In addition, the Revenue Estimating Conference has estimated that the recurring fiscal impact to local governments will be (\$1.0) million, assuming no change in millage rates.

This constitutional amendment, if approved, would take effect December 7, 2006, be self-executing, and not need implementing legislation.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes - This joint resolution lowers taxes for certain disabled World War II veterans by allowing them to take a discount on their homestead property tax based on the percentage of their disability as determined by the United States Department of Veteran's Affairs.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Property Tax Exemptions for Disabled Veterans

The Legislature may only grant property tax exemptions that are authorized in the constitution, and modifications to property tax exemptions must be consistent with the constitutional provision authorizing the exemption. Article VII, Section 3(b) of the State Constitution authorizes the Legislature to enact homestead exemptions "to every widow or widower or person who is blind or totally and permanently disabled." Chapter 196, F.S., establishes a number of homestead property tax exemptions for permanently and totally disabled veterans and, in some cases, their spouses.

Section 196.081, F.S., provides an exemption from taxation on homesteads owned by certain veterans who received a disability or died as a result of their military service. The surviving un-remarried spouses may receive this tax exemption upon the death of such veterans. The Department of Revenue (DOR) reported that in 2005, 30,080¹ parcels of property received this exemption.

Section 196.091, F.S., provides an exemption from taxation on homesteads owned by certain ex-service members who have a service-connected total disability and are confined to a wheelchair. The surviving un-remarried spouses may receive this homestead tax exemption upon the death of such ex-service members as long as they reside on that property. The DOR reported that in 2005, 240² parcels of property were exempted through this statute.

Section 196.24, F.S., provides a reduction of \$5,000 off property values for homesteads owned by certain ex-service members who are disabled at a rate of 10% or more provided such disability occurred during wartime or through misfortune. The surviving un-remarried spouses may receive this property value reduction upon the death of such ex-service members if they had been married for 5 years. The DOR reported that in 2005, 89,583³ parcels of property received this exemption.

Effect of Proposed Changes:

This joint resolution would allow certain partially disabled veterans of World War II to receive a discount from the amount of the ad valorem tax otherwise owed on homestead property. In order to qualify for this discount, the World War II veteran must demonstrate:

- He or she was a Florida resident at the time of entering the military service;
- The disability was combat-related; and
- The veteran was honorably discharged upon separation from military service.

¹ Communication with Brian Jacobik, Florida Department of Revenue. February 10, 2006. Email on file with Committee on Military & Veteran Affairs.

² Id.

³ Id.

The amount of the discount is a percentage equal to the percentage of the veteran's permanent, combat-related disability, as determined by the U.S. Department of Veterans Affairs. For example, a veteran with a 70 percent disability would receive a 70 percent discount on their ad valorem tax bill.

Applicants for this discount are required to submit documentation supporting their eligibility to the county property appraiser at least 180 days before the scheduled mailing of the current year's property tax notice. Required documentation includes the following:

- Proof of residency at the time of entering military service;
- Proof that the injury was combat-related; an official letter from the United States Department of Veteran's Affairs stating the percentage of the veteran's permanent disability; and
- A copy of the veteran's honorable discharge.

The joint resolution provides that if the property appraiser denies the request for a discount, the appraiser must notify the applicant in writing of the reasons for the denial, and the veteran may reapply.

The joint resolution provides ballot language and specifies that the amendment shall be submitted to the electors of Florida at the next general election or at an earlier special election specifically authorized for that purpose.

The DOR reported that in 2005, 89,583 partially disabled veterans used the reduction of property value provided in s. 196.24, F.S. The number of partially disabled veterans that would qualify for this joint resolution would be from this population. Since, the 89,583 includes veterans of all conflicts, the number of partially disabled World War II veterans, as specified in this joint resolution, would be a small portion of this number.

This constitutional amendment, if approved, would take effect December 7, 2006, be self-executing, and not need implementing legislation.

C. SECTION DIRECTORY:

Not Applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This joint resolution does not appear to have a fiscal impact on state revenues.

2. Expenditures:

Non-Recurring

FY 2006-07

Department of State, Division of Elections
Publications Costs⁴

\$50,000⁵

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

⁴ See Art. XI, Sec. 5(d), Fla. Const.

⁵ Communication with Logan Mitchell, Department of State Division of Elections. February 10, 2006.

The Revenue Estimating Conference has estimated that the recurring fiscal impact of this constitutional amendment to local governments will be (\$1.0) million, assuming no change in millage rates.

2. Expenditures:

This joint resolution does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Those partially disabled World War II veterans that this joint resolution would benefit could, depending on the extent of their disability rating, receive a substantial discount on their homestead property taxes.

D. FISCAL COMMENTS:

Article XI, s. 5(d) of the State Constitution requires the state to publish the proposed amendment along with notice of the date of the election at which it will be submitted before electors in one newspaper in each county in which a newspaper is published once in the tenth week and once in the sixth week immediately preceding the week the election is held. The Division of Elections estimates this cost to be approximately \$50,000⁶ to meet the requirements of this provision.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provisions of Article VII, section 18 of the Florida Constitution do not apply to joint resolutions.

2. Other:

Article XI, s. 1 of the Florida Constitution, provides the Legislature the authority to propose amendments to the constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or may be placed at a special election held for that purpose.

This constitutional amendment, if approved, would take effect December 7, 2006, be self-executing, and not need implementing legislation.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Because this amendment is intended to be self-executing it includes provisions regarding the application for this exemption. Therefore, the ability of the Legislature to modify these requirements is extremely limited. As such, it appears that this exemption would require the veteran to reapply for the exemption each year and supply the Property Appraiser with new copies of the documents showing eligibility each year.

In addition, confusion may arise as to when the deadline for application is, since the resolution states that the application must be submitted "at least 180 days before the scheduled mailing of the current year's property tax notice". Arguably, this deadline may mean the application is due by May 5, which is

⁶ Communication with Logan Mitchell, Department of State Division of Elections. February 10, 2006.

180 days before November 1, the day the tax roll is supposed to be certified for collection, unless an extension has been granted. On the other hand, applications may be due May 25 which is 180 days before the last day for tax notices to be mailed assuming that the roll was certified November 1. However, the deadline may be earlier since tax rolls are often certified in October so that tax bills can be mailed before November 1. This confusion illustrates the problem with the date included in the bill – it is not a clear cut date that is easy to calculate and which would allow everyone to clearly understand when application must be made.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

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House Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII of the State Constitution, relating to homestead exemptions from ad valorem taxation, to provide a discount from the amount of ad valorem taxation levied on the homestead of a World War II veteran who meets specified criteria.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 6 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.--

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entirety, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a

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2006

29 corporation owning a fee or a leasehold initially in excess of
30 ninety-eight years.

31 (b) Not more than one exemption shall be allowed any
32 individual or family unit or with respect to any residential
33 unit. No exemption shall exceed the value of the real estate
34 assessable to the owner or, in case of ownership through stock
35 or membership in a corporation, the value of the proportion
36 which the interest in the corporation bears to the assessed
37 value of the property.

38 (c) By general law and subject to conditions specified
39 therein, the exemption shall be increased to a total of twenty-
40 five thousand dollars of the assessed value of the real estate
41 for each school district levy. By general law and subject to
42 conditions specified therein, the exemption for all other levies
43 may be increased up to an amount not exceeding ten thousand
44 dollars of the assessed value of the real estate if the owner
45 has attained age sixty-five or is totally and permanently
46 disabled and if the owner is not entitled to the exemption
47 provided in subsection (d).

48 (d) By general law and subject to conditions specified
49 therein, the exemption shall be increased to a total of the
50 following amounts of assessed value of real estate for each levy
51 other than those of school districts: fifteen thousand dollars
52 with respect to 1980 assessments; twenty thousand dollars with
53 respect to 1981 assessments; twenty-five thousand dollars with
54 respect to assessments for 1982 and each year thereafter.
55 However, such increase shall not apply with respect to any
56 assessment roll until such roll is first determined to be in

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compliance with the provisions of section 4 by a state agency designated by general law. This subsection shall stand repealed on the effective date of any amendment to section 4 which provides for the assessment of homestead property at a specified percentage of its just value.

(e) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

(f) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant an additional homestead tax exemption not exceeding twenty-five thousand dollars to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner and who has attained age sixty-five and whose household income, as defined by general law, does not exceed twenty thousand dollars. The general law must allow counties and municipalities to grant this additional exemption, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.

(g) Each veteran of World War II who is partially or totally permanently disabled shall receive a discount from the amount of the ad valorem tax otherwise owed on homestead property the veteran owns and resides in if the disability was

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combat-related, the veteran was a resident of this state at the
time of entering the military service of the United States, and
the veteran was honorably discharged upon separation from
military service. The discount shall be in a percentage equal to
the percentage of the veteran's permanent, combat-related
disability as determined by the United States Department of
Veterans Affairs. To qualify for the discount granted by this
subsection, an applicant must submit to the county property
appraiser, at least 180 days before the scheduled mailing of the
current year's property tax notice, proof of residency at the
time of entering military service, proof that the disability was
combat-related, an official letter from the United States
Department of Veterans Affairs stating the percentage of the
veteran's permanent disability, and a copy of the veteran's
honorable discharge. If the property appraiser denies the
request for a discount, the appraiser must notify the applicant
in writing of the reasons for the denial, and the veteran may
reapply. This subsection shall take effect December 7, 2006, is
self-executing, and does not require implementing legislation.

BE IT FURTHER RESOLVED that the following statement be
 placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 6

WORLD WAR II PERMANENTLY DISABLED VETERANS' DISCOUNT ON
 HOMESTEAD AD VALOREM TAX.--Proposing an amendment to the State
 Constitution to provide a discount from the amount of ad valorem
 tax on the homestead of a partially or totally permanently
 disabled veteran of World War II who was a Florida resident at

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113 | the time of entering military service, whose disability was
114 | combat-related, and who was honorably discharged; to specify the
115 | percentage of the discount as equal to the percentage of the
116 | veteran's permanent combat-related disability; to specify
117 | qualification requirements for the discount; and to specify that
118 | the provision takes effect December 7, 2006, is self-executing,
119 | and does not require implementing legislation.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 631

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: Finance & Tax Committee
Representative(s) offered the following:

Amendment

Remove line(s) 93-103 and insert:

appraiser, by March 1, proof of residency at the time of
entering military service, proof that the disability was combat-
related, an official letter from the United States Department of
Veterans Affairs stating the percentage of the veteran's
permanent disability, and a copy of the veteran's honorable
discharge. If the property appraiser denies the request for a
discount, the appraiser must notify the applicant in writing of
the reasons for the denial, and the veteran may reapply. The
Legislature may, by general law, waive the annual application
requirement in subsequent years. This subsection shall take
effect December 7, 2006, is self-executing, and does not require
implementing legislation.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 891 Local Occupational License Taxes
SPONSOR(S): Goldstein and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1822

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N	Camechis	Hamby
2) Finance & Tax Committee		Rice <i>ACR</i>	Diez-Arguelles <i>JD</i>
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

This bill allows a municipality that adopted a local occupational license tax ordinance after October 1, 1995, to revise its current tax rate or classification structure before October 1, 2006. The municipality must do this in accordance with s. 205.0535, F.S. This section requires the municipality to appoint an equity study commission to make rate and classification recommendations and limits reclassification increases to the following amounts:

- For licenses costing \$150 or less, 200 percent;
- For licenses costing more than \$150 but not more than \$500, 100 percent;
- For licenses costing more than \$500 but not more than \$2,500, 75 percent;
- For licenses costing more than \$2,500 but not more than \$10,000, 50 percent; and
- For licenses costing more than \$10,000, 10 percent.

A municipal occupational license tax may not be increased by more than \$5,000, and revenues generated by the new rate structure may not exceed the sum of the revenue base plus 10 percent of that revenue base. If a municipality revises its occupational license tax ordinance prior to October 1, 2006, license taxes may be increased by up to five percent each subsequent year if approved by a majority plus one of the municipal governing body.

The bill also authorizes counties and municipalities to decrease or repeal occupational license taxes.

This bill does not have a fiscal impact on state government, and will have an indeterminate impact on local government revenues.

This bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes – This bill provides authority for municipalities to revise current occupational license tax ordinances that were adopted after October 1, 1995. The bill also permits municipalities and counties to lower or eliminate local occupational license taxes. Therefore, this bill may result in lower or higher occupational license taxes for some taxpayers depending on the actions of the local governments.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 205.0535, F.S., authorized counties and municipalities to revise occupational license tax ordinances prior to October 1, 1995. In order for a county or municipality to reclassify businesses, professions, or occupations and establish new rate structures under this section, the municipality or county had to first establish an equity study commission composed of representatives of the business community within the local government's jurisdiction. The equity study commission was required to recommend a classification system and rate structure for local occupational license taxes. The local government was authorized to adopt by majority vote a new occupational license tax ordinance after considering the equity study commission recommendation. A reclassification could not increase the occupational license tax by more than the following:

- For licenses costing \$150 or less, 200 percent;
- For licenses costing more than \$150 but not more than \$500, 100 percent;
- For licenses costing more than \$500 but not more than \$2,500, 75 percent;
- For licenses costing more than \$2,500 but not more than \$10,000, 50 percent; and
- For licenses costing more than \$10,000, 10 percent.

A license tax could not be increased by more than \$5,000 and the revenues generated by the new tax rate structure could not exceed the sum of the revenue base plus 10 percent of that revenue base. The revenue base is the sum of the occupational license tax revenue generated by licenses issued for the most recently completed local fiscal year or the amount of revenue that would have been generated from the authorized increases under s. 205.043(1)(b), F.S., whichever is greater, plus any revenue received from the county under s. 205.033(4), F.S.

If a municipality or county revised its occupational license tax ordinance prior to October 1, 1995, license taxes may be increased each subsequent year by up to five percent if approved by a majority plus one of the municipal governing body.

Unless a municipality revised its rate or classification structure in accordance with s. 205.0535, F.S., prior to October 1, 1995, or adopted a new occupational license tax ordinance under s. 205.0315, F.S., an occupational license tax levied under s. 205.043, F.S., may not exceed the rate in effect for the year beginning October 1, 1971 plus increases authorized in the section. The amount of the increase above the license tax rate levied on October 1, 1971, is limited as follows:

- For taxes under \$100, a 100% increase is permitted;
- For taxes between \$101 and \$300, a 50% increase is permitted;
- For taxes over \$300, a 25% increase is permitted; and
- For taxes levied at a graduated or per unit rates, a 25% increase is permitted.

Beginning October 1, 1995, a county or municipality that had not adopted an occupational license tax ordinance or resolution may do so under s. 205.0315, F.S. The occupational license tax rate structure

and classifications in the adopted ordinance must be reasonable and based upon the rate structure and classifications prescribed in ordinances adopted by adjacent local governments that adopted an ordinance prior to October 1, 1995 under s. 205.0535, F.S. If no adjacent local government has done so, or if the governing body of the county or municipality finds that the rate structures or classifications of adjacent local governments are unreasonable, the rate structure or classifications prescribed in its ordinance may be based upon those prescribed in ordinances adopted by local governments that adopted an ordinance prior to October 1, 1995 under s. 205.0535, F.S., in counties or municipalities that have a comparable population.

Effect of Proposed Changes

This bill amends s. 205.0535, F.S., to allow a municipality that adopted a local occupational license tax ordinance after October 1, 1995 to revise its current tax rate or classification structure before October 1, 2006. If a municipality wishes to revise its local occupational license tax ordinance as authorized by this bill, the municipality must follow the same procedures that applied to revisions of rate and classification structures made prior to October 1, 1995 under s. 205.0535, F.S.

The bill also grants counties and municipalities authority to decrease local occupational license taxes. Currently, the statute does not explicitly grant such authority and the Attorney General's Office has advised a number of jurisdictions that, in the absence of such authority, no decrease or elimination is possible. In AGO 2002-81, the Attorney General stated:

On several occasions, this office has addressed the authority of a municipality to alter its occupational license tax ordinance, through the exemption of certain categories of occupations or businesses or by decreasing the rates for a particular classification. In the absence of legislative authorization, this office has determined that no such alteration may be made. Given the number of instances where local governments have sought to make such alterations, it may be advisable to seek legislative changes to provide the necessary authority.

Lastly, the bill specifies that nothing in ch. 205, F.S., may be construed to prohibit a municipality or county from decreasing or repealing any license tax authorized under that chapter.

C. SECTION DIRECTORY:

Section 1. Amends section 205.0535, F.S., to allow municipalities that adopted an occupational license tax ordinance after October 1, 1995 to reclassify businesses, professions, and occupations, and establish a new rate structure prior to October 1, 2006; allows municipalities and counties to decrease or repeal license tax rates.

Section 2. Provides that the bill shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill will give municipalities more flexibility to revise local occupational license taxes, including the ability to increase, reduce, or eliminate those taxes.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill grants municipalities and counties the authority to eliminate or reduce local occupational license taxes. As such, some taxpayers may see a reduction in or elimination of these taxes. The bill also allows some municipalities to revise their current license tax or classification structure in a manner that may result in an increase of license taxes for some taxpayers.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None

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2006

A bill to be entitled

An act relating to local occupational license taxes;
amending s. 205.0535, F.S.; updating provisions
authorizing reclassification and new rate structure
revisions to local occupational license taxes by
ordinance; deleting counties from such authorization
provisions; authorizing decreasing local occupational
license tax rates; providing construction with respect to
decreasing or repealing such taxes; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1) and (4) of section 205.0535,
Florida Statutes, are amended to read:

205.0535 Reclassification and rate structure revisions.--

(1) By October 1, 2006 ~~1995~~, any municipality that has
adopted by ordinance an occupational license tax after October
1, 1995, ~~or county may,~~ by ordinance, reclassify businesses,
professions, and occupations and may establish new rate
structures, if the conditions specified in subsections (2) and
(3) are met. A person who is engaged in the business of
providing local exchange telephone service or a pay telephone
service in a municipality or in the unincorporated area of a
county and who pays the occupational license tax under the
category designated for telephone companies or a pay telephone
service provider certified pursuant to s. 364.3375 is deemed to
have but one place of business or business location in each

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29 municipality or unincorporated area of a county. Pay telephone
30 service providers may not be assessed an occupational license
31 tax on a per-instrument basis.

32 (4) After the conditions specified in subsections (2) and
33 (3) are met, municipalities and counties may, every other year
34 thereafter, increase or decrease by ordinance the rates of local
35 occupational license taxes by up to 5 percent. An ~~The~~ increase,
36 however, may not be enacted by less than a majority plus one
37 vote of the governing body. Nothing in this chapter shall be
38 construed to prohibit a municipality or county from decreasing
39 or repealing any license tax authorized under this chapter.

40 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 917 Property Taxes
SPONSOR(S): Needelman
TIED BILLS: **IDEN./SIM. BILLS:** SB 1508

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee		Monroe <i>KDSM</i>	Diez-Arguelles <i>[Signature]</i>
2) Local Government Council			
3) Fiscal Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

This bill allows a charter county to restrict the annual growth in ad valorem tax revenues, but not below the lesser of 3 percent or the change in the Consumer Price Index. The restriction must be approved by a three-fifths vote of the electorate. In computing the millage rate to conform to the revenue restriction, new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation and that increased the assessed value of such improvements by at least 100 percent, and property added due to geographic boundary changes are excluded. Also, the cap may be exceeded if the county commission, by a super-majority vote, makes a finding of necessity due to emergency or critical need.

Finally, the bill prohibits a county, through a municipal service taxing unit, from exceeding the millage rate specified in the ordinance that established such unit.

This bill has no effect upon state revenues and a negative indeterminate effect on local revenues.

The bill has an effective date of January 1, 2007

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes – By allowing charter counties to limit increases in millage rates, this bill would provide for lower taxes in those counties which adopt such provisions.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Ad Valorem Taxation - Ad valorem taxation is a tax on the fair market value of locally assessed real estate and tangible personal property, less certain exclusions, differentials, exemptions, and credits. The ability of local governments to raise revenue for their operations is narrowly constrained by the state constitution. Article VII, s. 1(a), of the Florida Constitution provides:

No tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.

The State Constitution caps the millage rates assessed against the value of the property.¹ For counties, municipalities, and school districts, the cap is 10 mills.

Section 200.071, F.S., in part, implements the constitutional millage cap for counties. Subsection (1) provides that except as otherwise provided, counties may not levy more than 10 mills, except for voted levies, against real property and tangible personal property in their jurisdictions. Furthermore, subsection (3) restricts counties from levying more than 10 mills through a municipal service taxing unit against real property and tangible personal property within each such municipal service taxing unit.

Municipal Service Taxing Units (MSTUs) - Section 125.01(1)(q), F.S., authorizes counties to establish municipal service taxing or benefit units for any part or all of the unincorporated area of the county, within which the following may be provided:

...fire protection; law enforcement; beach erosion control; recreation service and facilities; water; alternative water supplies, including, but not limited to, reclaimed water and water from aquifer storage and recovery and desalination systems; streets; sidewalks; street lighting; garbage and trash collection and disposal; waste and sewage collection and disposal; drainage; transportation; indigent health care services; mental health care services; and other essential facilities and municipal services from funds derived from service charges, special assessments, or taxes within such unit only.

This paragraph further provides that if ad valorem taxes are levied, the millage levied on any parcel of property for municipal purposes by all municipal service taxing units may not exceed 10 mills.

Charter Counties - The Florida Constitution provides that the state be divided by law into political subdivisions called counties.² There are two general types of counties in Florida: charter and non-charter. *Non-charter counties* have home-rule powers as provided by general or special law, and may enact ordinances that are not inconsistent with general or special law.³ *Charter counties* have all powers of local government not inconsistent with general law or with special law approved by vote of

¹ See Article VII, Section 9 of the State Constitution. A mill is defined as 1/1000 of a dollar, or \$1 per \$1000 of table value.

² Article VIII, s. 1(a) of the State Constitution. Ch. 7, F.S., specifies the physical boundaries of the 67 counties in Florida.

³ Article VIII, s. 1(f) of the State Constitution.

the electors.⁴ This 'special law' constitutes a local charter, or a "local constitution" that defines the structure, powers and functions of county government. This charter may only be approved, amended or repealed by the county electorate. Approximately 80 percent of all Floridians live in one of the state's 19 charter counties.⁵

Recent Efforts to Cap Local Budgets - Numerous past local efforts to establish some type of millage rate or budget cap in county charters have been struck down by the courts as unconstitutional. Notable cases include the following:

- In *Board of County Commissioners of Dade County v. Wilson*,⁶ the Florida Supreme Court found that ch. 200, F.S., set forth the exclusive manner by which to set countywide millage rates. The court held that a proposed voter initiative to set a county millage rate at four mills for Dade County for 1980-1981 was unconstitutional.
- In *Board of County Commissioners of Marion County v. McKeever*,⁷ the Fifth District Court of Appeals found that chapters 129 and 200, F.S., contemplated the annual preparation and adoption of the budget and the setting of millage rates by a county commission. This court struck down a Marion County ordinance that purported to establish a cap of .25 mills of ad valorem tax for the county transportation fund for a period of ten years.
- In *Charlotte County Board of County Commissioners v. Taylor*,⁸ the Second District Court of Appeals found unconstitutional a voter approved amendment to the county's charter to limit the Commission's authority to adopt any millage rate which would result in more than a 3 percent increase in the total revenue generated over the total ad valorem taxes for the previous year. In so finding, the court noted the charter amendment was inconsistent with the provisions of chapters 129 and 200, F.S. The court struck down the charter amendment noting that Art. VIII, s. 1(g), State Constitution, provides that the counties operating under county charters shall have all the powers of local self-government not inconsistent with general law.
- Attorney General Opinion 2001-04 opined to the Hillsborough County Board of County Commissioners that a county could not amend its charter to place a cap on the annual increase in the county's operating budget with a provision that the cap could be waived by an affirmative vote of at least six of the seven members of the board of county commissioners.
- Recently, in *Ellis v. Burk*,⁹ the Fifth District Court of Appeals struck down a tax cap provision of the Brevard County Home Rule Charter. The provision prohibited the county from increasing its ad valorem tax revenue in any one year by more than the lesser of 3 percent or the percentage change of the Consumer Price Index for the previous year, over the previous year's ad valorem revenues without the approval of a majority of the voters at a general or special election. In the decision, the court stated that "[u]nder our state constitution and statutory scheme, the power to limit a county commission's ability to raise revenue for the county's operating needs by way of ad valorem taxation is effectively and exclusively lodged in the [L]egislature."

Proposed Changes

The bill amends s. 200.71, F.S., to allow a charter county to cap the growth of its ad valorem tax revenue at a rate specified in its charter, even if this results in a millage cap that is less than the 10

⁴ Article VIII, ss. 1(c) and (g) of the State Constitution.

⁵ The 19 charter counties include: Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval, Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, and Volusia.

⁶ 386 So. 2d 556 (Fla. 1980).

⁷ 436 So. 2d 299 (Fla. 5th DCA 1983).

⁸ 650 So. 2d 146 (Fla. 2d DCA 1995).

⁹ 866 So. 2d 1236 (Fla. 5th DCA 2004), *cert. denied*, 879 So.2d 621 (Fla. 2004).

mills allowed under s. 9, Art. VII of the State Constitution. The growth cap must be approved by a three-fifths vote of the electorate of the county. However, the cap may not restrict the annual growth rate at a rate below the lesser of 3 percent or the change in the Consumer Price Index. Also, a county charter with an ad valorem cap must allow for the cap to be exceeded with a finding of necessity due to emergency or critical need by a super-majority vote of the county commission.

In applying the cap in the charter, the county shall compute a millage rate that provides the same ad valorem revenue for each taxing authority as was levied in the prior year. However, this millage rate is "exclusive of any new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation and that increased the assessed value of such improvements by at least 100 percent, and property added due to geographic boundary changes." This millage rate is subject to the ad valorem cap in the county charter.

Finally, the bill prohibits a county, through a municipal service taxing unit, from exceeding the millage rate set in the ordinance establishing the municipal service taxing unit.

C. SECTION DIRECTORY:

Section 1 – Amends section 200.071, F.S., to allow charter counties to place a limitation on the growth of ad valorem millage rates in their charters.

Section 2 – Provides an effective date of January 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The fiscal impact of this bill on county revenues cannot be determined, since it depends on future actions by the voters in each charter county.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None

HB 917

2006

1 A bill to be entitled

2 An act relating to property taxes; amending s. 200.071,
3 F.S.; authorizing counties to cap annual growth in ad
4 valorem tax revenues by charter; providing requirements
5 and limitations; providing an exception; prohibiting ad
6 valorem tax levies by counties in excess of amounts
7 specified in the county charter; prohibiting ad valorem
8 tax levies by counties through municipal service taxing
9 units in excess of amounts specified in the ordinance
10 establishing the unit; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsections (1) and (3) of section 200.071,
15 Florida Statutes, are amended to read:

16 200.071 Limitation of millage; counties.--

17 (1)(a) Except as otherwise provided herein, no ad valorem
18 tax millage shall be levied against real property and tangible
19 personal property by counties in excess of 10 mills or the
20 amount specified in the county charter, whichever is less, as
21 provided in paragraph (b), except for voted levies.

22 (b) A county may cap, through a provision in its charter,
23 the annual growth in ad valorem tax revenues. Any such cap may
24 not restrict the annual growth at a rate below the lesser of 3
25 percent or the Consumer Price Index as provided in s.
26 193.155(1)(b). Any such cap specified in a county charter must
27 allow for the cap to be overcome by a finding of necessity due
28 to emergency or critical need by a super-majority vote of the

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29 county commission. In applying the increase or growth cap, the
30 county shall compute a millage rate which, exclusive of new
31 construction, additions to structures, deletions, increases in
32 the value of improvements that have undergone a substantial
33 rehabilitation which increased the assessed value of such
34 improvements by at least 100 percent, and property added due to
35 geographic boundary changes, will provide the same ad valorem
36 tax revenue for each taxing authority as was levied during the
37 prior year. It is the rate that shall be subject to any cap in
38 growth or increase in ad valorem revenues established by county
39 charter.

40 (3) Any county which, through a municipal service taxing
41 unit, provides services or facilities of the kind or type
42 commonly provided by municipalities, may levy, in addition to
43 the millages otherwise provided in this section, against real
44 property and tangible personal property within each such
45 municipal service taxing unit an ad valorem tax millage not in
46 excess of 10 mills, or an amount specified in the ordinance
47 establishing the municipal service taxing unit, if any,
48 whichever is less, to pay for such services or facilities
49 provided with the funds obtained through such levy within such
50 municipal service taxing unit.

51 Section 2. This act shall take effect January 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 917

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Council/Committee hearing bill: Finance & Tax Committee

Representative(s) offered the following:

Amendment (with directory and title amendments)

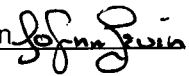

Remove line(s) 25 and insert:

percent or the percentage change in the Consumer Price Index as
provided in s.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FT 06-01 Corporate Income Tax
SPONSOR(S): Finance & Tax Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1198

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Finance & Tax Committee		Levin 	Diez-Arguelles 
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Florida's Corporate Income Tax Code follows the Federal Internal Revenue Code by using federal rules and starting with federal taxable income as the tax base for the Florida income tax. Section 220.03, Florida Statutes, defines specific terms as they apply to Florida's corporate income tax code. The term "Internal Revenue Code" is currently defined to mean those provisions of the United States Internal Revenue Code of 1986, as amended, in effect on January 1, 2005.

The bill updates the Florida Income Tax Code to reflect changes Congress made to the U.S. Internal Revenue Code of 1986 during 2005, by adopting the Internal Revenue Code as in effect on January 1, 2006. The definition provides for "piggybacking" each change made during 2005 to the Internal Revenue Code.

The bill takes effect upon becoming a law and operates retroactively to January 1, 2006.

The Revenue Estimating Conference has estimated that the impact of this bill on state revenues is negative indeterminate.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited Government:

The bill permits Florida corporations to rely upon one set of fiscal books, rather than upon separate books for federal and state income taxes.

B. EFFECT OF PROPOSED CHANGES:

Florida's Corporate Income Tax follows the Federal Internal Revenue Code (IRC) by using federal rules and starting with federal taxable income as the tax base for Florida income tax. Section 220.03, Florida Statutes, defines specific terms as they apply to Florida's corporate income tax code. The term "Internal Revenue Code" is defined to mean those provisions of the United States Internal Revenue Code of 1986, as amended, in effect on January 1, 2005.

Florida's Constitution forbids the Legislature from delegating its legislative authority to another body, such as Congress. While the Legislature may adopt by reference a federal law, the Legislature may only adopt a law that is in existence when the legislation is passed. Since the IRC usually changes every year, it is necessary for Florida to adopt the most recent version of the IRC each year.

This bill updates the Florida Income Tax Code to reflect the changes Congress has made to the IRC. This definition provides for "piggybacking" each change made during 2005 to the IRC.

This bill ensures that corporations which are subject to Florida corporate income tax can base their calculations on current IRS rules. Failure to pass this bill would mean these corporations would need to keep two sets of accounts: one for Florida and one for IRS purposes.

The bill takes effect upon becoming a law and operates retroactively to January 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 220.03(1)(n), F.S., to update references to the Internal Revenue Code.

Section 2: Provides that the bill shall take effect upon becoming law and shall operate retroactively to January 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: The Revenue Estimating Conference has estimated that the impact of this bill on state revenues is negative indeterminate.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill ensures that corporations which are subject to Florida corporate income tax can base their calculations on current IRS rules. Failure to pass this bill would mean these corporations would need to keep two sets of accounts: one for Florida and one for IRS purposes.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

PCB FT 06-01

ORIGINAL

YEAR

1 A bill to be entitled
2 An act relating to the corporate income tax; amending s.
3 220.03, F.S.; providing for the adoption of the 2006
4 version of the Internal Revenue Code; providing for
5 retroactive operation; providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Paragraph (n) of subsection (1) and subsection
10 (2) of section 220.03, Florida Statutes, are amended to read:

11 220.03 Definitions.--

12 (1) SPECIFIC TERMS.--When used in this code, and when not
13 otherwise distinctly expressed or manifestly incompatible with
14 the intent thereof, the following terms shall have the following
15 meanings:

16 (n) "Internal Revenue Code" means the United States
17 Internal Revenue Code of 1986, as amended and in effect on
18 January 1, 2006 ~~2005~~ except as provided in subsection (3).

19 (2) DEFINITIONAL RULES.--When used in this code and neither
20 otherwise distinctly expressed nor manifestly incompatible with
21 the intent thereof:

22 (a) The word "corporation" or "taxpayer" shall be deemed to
23 include the words "and its successors and assigns" as if these
24 words, or words of similar import, were expressed;

25 (b) Any term used in any section of this code with respect
26 to the application of, or in connection with, the provisions of
27 any other section of this code shall have the same meaning as in
28 such other section; and

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29 (c) Any term used in this code shall have the same meaning
30 as when used in a comparable context in the Internal Revenue Code
31 and other statutes of the United States relating to federal
32 income taxes, as such code and statutes are in effect on January
33 1, 2006 ~~2005~~ However, if subsection (3) is implemented, the
34 meaning of any term shall be taken at the time the term is
35 applied under this code.

36 Section 2. This act shall take effect upon becoming a law
37 and shall operate retroactively to January 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FT 06-03 **Tax on Sales, Use and Other Transactions**
SPONSOR(S): Finance & Tax Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1428

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Finance & Tax Committee		Noriega 	Diez-Arguelles 
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill rewrites s. 212.20(6)(d), F.S., so that sales and use tax distributions can be calculated as percentages of total collections independent of one another. Under the current distribution formula, the majority of the distributions cannot be calculated until preceding distributions are made.

The Revenue Estimating Conference has not estimated the fiscal impact of this bill to state and local governments. However, this bill is intended to be revenue neutral.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Chapter 212, F.S., imposes taxes on sales, use and other transactions. Chapter 202, F.S., imposes the communications services tax. Section 212.20(6)(d), F.S., governs the distributions of the sales tax and of the state portion of the communications services tax collected by the Department of Revenue. Over time, there have been numerous changes to the statutory sales tax distribution section, which have led to a complicated distribution formula where the majority of the distributions cannot be calculated until preceding distributions are made. With this methodology in mind, the sales tax distributions are made as follows:

- 0.2% to the Ecosystem and Restoration Management Trust Fund;
- 8.814% to the Local Government Half-cent Sales Tax Clearing Trust Fund;
- 0.095% to certain counties pursuant to s. 218.65, F.S., the Emergency Distributions;
- 2.044% to the County Revenue Sharing Trust Fund;
- 1.3409% to the Municipal Revenue Sharing Trust Fund;
- \$29,915,500 to counties in equal shares of \$446,500 annually;
- \$166,667 distributed monthly (\$2 million annually) to each applicant who qualifies as a "facility for a new or retained professional sports franchise." Distributions are made to the following franchises:
 - Pro Player Stadium, home of the Florida Marlins;
 - Alltel Stadium, home of the Jacksonville Jaguars;
 - Tropicana Field, home of the Tampa Bay Devil Rays;
 - St. Pete Times Forum, home of the Tampa Bay Lightning;
 - Home Depot Stadium, home of the Florida Panthers;
 - Raymond James Stadium, home of the Tampa Bay Buccaneers; and
 - American Airlines Arena, home of the Miami Heat.
- \$41,667 distributed monthly (\$0.5 million annually) to each applicant who qualifies as a "retained spring training franchise." Distributions are made to the following franchises:
 - Philadelphia Phillies, Clearwater;
 - L.A. Dodgers, Indian River County;
 - Toronto Blue Jays, Dunedin;
 - Detroit Tigers, Lakeland; and
 - Houston Astros, Osceola County.
- \$166,667 distributed monthly (\$2 million annually) to the Professional Golf Hall of Fame;
- \$83,333 distributed monthly (\$1 million annually) to the International Game Fish Association World Center; and
- The remainder to the General Revenue Fund.

Proposed Changes

This bill proposes the following percentage changes to the sales tax distributions, so that the following distributions can be treated independently of one another for calculation purposes:

- 7.797% to the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 218.61, F.S.;
- 0.007% to the Local Government Half-cent Sales Tax Clearing Trust Fund, and to be distributed to the Public Employees Relations Commission Trust Fund;
- 0.083% to certain counties pursuant to s. 218.65, F.S., the Emergency Distributions;
- 1.777% to the County Revenue Sharing Trust Fund pursuant to s. 218.215, F.S.; and
- 1.165% to the Municipal Revenue Sharing Trust Fund pursuant to s. 218.215, F.S.

C. SECTION DIRECTORY:

Section 1. Amends s. 212.20(6)(d), F.S., to simplify sales tax distributions by changing percentages so they are calculated on total collections to produce distributions that are revenue neutral.

Section 2. Amends s. 202.18(2)(b), F.S., to correct cross references.

Section 3. Amends s. 218.65(5), F.S., to correct cross references.

Section 4. This act shall take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has not estimated the fiscal impact of this bill to state government. However, this bill is intended to be revenue neutral.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not estimated the fiscal impact of this bill to local governments. However, this bill is intended to be revenue neutral.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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A bill to be entitled
An act relating to the tax on sales, use, and other transactions; amending s. 212.20, F.S.; changing the percentages for distributing taxes and fees imposed under ch. 212, F.S., and a portion of the communications services tax; removing an obsolete provision; amending ss. 202.18 and 218.65, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.--

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

~~1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.~~

1.2. Two-tenths of one percent shall be transferred to the Ecosystem Management and Restoration Trust Fund to be used for

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water quality improvement and water restoration projects.

~~2.3-~~ Seven and seven hundred ninety-seven thousandths percent ~~After the distribution under subparagraphs 1. and 2.,~~
~~8.814 percent~~ of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

3. Seven thousandths percent shall be transferred
~~Beginning July 1, 2003, the amount to be transferred pursuant to this subparagraph~~ to the Local Government Half-cent Sales Tax Clearing Trust Fund ~~shall be reduced by 0.1 percent,~~ and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund ~~less \$5,000 each month, which shall be added to the amount calculated in subparagraph 4. and distributed accordingly.~~

4. Eighty-three thousandths percent ~~After the distribution under subparagraphs 1., 2., and 3.,~~ 0.095 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. One and seven hundred seventy-seven thousandths percent
~~After the distributions under subparagraphs 1., 2., 3., and 4.,~~ 2.0440 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

6. One and one hundred sixty-five thousandths percent
~~After the distributions under subparagraphs 1., 2., 3., and 4.,~~ 1.3409 percent of the available proceeds pursuant to this paragraph shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the

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59 total revenue to be distributed pursuant to this subparagraph is
60 at least as great as the amount due from the Revenue Sharing
61 Trust Fund for Municipalities and the former Municipal Financial
62 Assistance Trust Fund in state fiscal year 1999-2000, no
63 municipality shall receive less than the amount due from the
64 Revenue Sharing Trust Fund for Municipalities and the former
65 Municipal Financial Assistance Trust Fund in state fiscal year
66 1999-2000. If the total proceeds to be distributed are less than
67 the amount received in combination from the Revenue Sharing Trust
68 Fund for Municipalities and the former Municipal Financial
69 Assistance Trust Fund in state fiscal year 1999-2000, each
70 municipality shall receive an amount proportionate to the amount
71 it was due in state fiscal year 1999-2000.

72 7. Of the remaining proceeds:

73 a. In each fiscal year, the sum of \$29,915,500 shall be
74 divided into as many equal parts as there are counties in the
75 state, and one part shall be distributed to each county. The
76 distribution among the several counties shall begin each fiscal
77 year on or before January 5th and shall continue monthly for a
78 total of 4 months. If a local or special law required that any
79 moneys accruing to a county in fiscal year 1999-2000 under the
80 then-existing provisions of s. 550.135 be paid directly to the
81 district school board, special district, or a municipal
82 government, such payment shall continue until such time that the
83 local or special law is amended or repealed. The state covenants
84 with holders of bonds or other instruments of indebtedness issued
85 by local governments, special districts, or district school
86 boards prior to July 1, 2000, that it is not the intent of this
87 subparagraph to adversely affect the rights of those holders or

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88 | relieve local governments, special districts, or district school
89 | boards of the duty to meet their obligations as a result of
90 | previous pledges or assignments or trusts entered into which
91 | obligated funds received from the distribution to county
92 | governments under then-existing s. 550.135. This distribution
93 | specifically is in lieu of funds distributed under s. 550.135
94 | prior to July 1, 2000.

95 | b. The department shall distribute \$166,667 monthly
96 | pursuant to s. 288.1162 to each applicant that has been certified
97 | as a "facility for a new professional sports franchise" or a
98 | "facility for a retained professional sports franchise" pursuant
99 | to s. 288.1162. Up to \$41,667 shall be distributed monthly by the
100 | department to each applicant that has been certified as a
101 | "facility for a retained spring training franchise" pursuant to
102 | s. 288.1162; however, not more than \$208,335 may be distributed
103 | monthly in the aggregate to all certified facilities for a
104 | retained spring training franchise. Distributions shall begin 60
105 | days following such certification and shall continue for not more
106 | than 30 years. Nothing contained in this paragraph shall be
107 | construed to allow an applicant certified pursuant to s. 288.1162
108 | to receive more in distributions than actually expended by the
109 | applicant for the public purposes provided for in s. 288.1162(6).
110 | However, a certified applicant is entitled to receive
111 | distributions up to the maximum amount allowable and
112 | undistributed under this section for additional renovations and
113 | improvements to the facility for the franchise without additional
114 | certification.

115 | c. Beginning 30 days after notice by the Office of
116 | Tourism, Trade, and Economic Development to the Department of

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Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, \$166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Office of Tourism, Trade, and Economic Development to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, \$83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. ~~A lump sum payment of \$999,996 shall be made, after certification and before July 1, 2000.~~

8. All other proceeds shall remain with the General Revenue Fund.

Section 2. Paragraph (b) of subsection (2) of section 202.18, Florida Statutes, is amended to read:

202.18 Allocation and disposition of tax proceeds.--The proceeds of the communications services taxes remitted under this chapter shall be treated as follows:

(2) The proceeds of the taxes remitted under s. 202.12(1)(b) shall be divided as follows:

(b) Sixty-three percent of the remainder shall be allocated to the state and distributed pursuant to s. 212.20(6), except that the proceeds allocated pursuant to s. 212.20(6)(d)2. ~~s. 212.20(6)(d)3.~~ shall be prorated to the participating counties in the same proportion as that month's collection of the taxes and fees imposed pursuant to chapter 212 and paragraph (1)(b).

Section 3. Subsection (5) of section 218.65, Florida

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146 Statutes, is amended to read:

147 218.65 Emergency distribution.--

148 (5) At the beginning of each fiscal year, the Department
149 of Revenue shall calculate a base allocation for each eligible
150 county equal to the difference between the current per capita
151 limitation times the county's population, minus prior year
152 ordinary distributions to the county pursuant to ss.

153 212.20(6)(d)2. ~~212.20(6)(d)3.~~, 218.61, and 218.62. If moneys
154 deposited into the Local Government Half-cent Sales Tax Clearing
155 Trust Fund pursuant to s. 212.20(6)(d)3. ~~s. 212.20(6)(d)4.~~,
156 excluding moneys appropriated for supplemental distributions
157 pursuant to subsection (7), for the current year are less than or
158 equal to the sum of the base allocations, each eligible county
159 shall receive a share of the appropriated amount proportional to
160 its base allocation. If the deposited amount exceeds the sum of
161 the base allocations, each county shall receive its base
162 allocation, and the excess appropriated amount shall be
163 distributed equally on a per capita basis among the eligible
164 counties.

165 Section 4. This act shall take effect July 1, 2006.

166

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FT 06-05 Property Tax Exemptions
SPONSOR(S): Finance & Tax Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 2676

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Finance & Tax Committee		Monroe <i>KDSM</i>	Diez-Arguelles <i>[Signature]</i>
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Under Article VII, section (3)(a), of the Florida Constitution the Legislature is authorized to provide an exemption from the property tax for property used predominately for religious purposes. This bill creates section 196.1987, F.S. to specifically describe one type of property eligible for the religious exemption.

Under the bill, the exemption applies if, the property:

- is owned by an entity exempt under section 501(c)(3) of the Internal Revenue Code,
- is used for activities which, according to written correspondence from the Internal Revenue Service, do not endanger its status as an exempt entity,
- is open to the public free of charge at least one day each year,
- is used to exhibit, illustrate, and interpret biblical manuscripts, codices, stone tablets, and other biblical archives
- is used to provide live and recorded demonstrations, explanations, reenactments, and illustrations of biblical history and biblical worship, and
- is used to exhibit times, places, and events of biblical history and significance.

This bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes – This bill would ensure that taxpayers operating biblical history displays will continue to be exempt from paying taxes.

B. EFFECT OF PROPOSED CHANGES:

Under Article VII, section (3)(a), of the Florida Constitution the Legislature is authorized to provide an exemption from the property tax for property used predominately for religious purposes. Section 196.196, F.S., enacts this exemption and provides some guidance as to how it is to be administered. However, occasionally there is a dispute as to what constitutes a religious use of property.

For example, in the recent case of Zion's Hope v. Donegan (Fla. 9th Cir. Ct., March 3, 2006), the issues was whether the property was being used for a religious purpose and exempt from taxation. The Property Appraiser maintained that the property was a theme park that simply had a biblical theme, while the taxpayer maintained that the land was being used "to impact Christian and non-Christians alike with the life-changing message of Jesus Christ, through the format of a living Biblical museum."

The court entered a summary judgment for the taxpayers stating that their use of the property was a religious use and that the property was exempt from ad valorem taxation.

This bill amends s. 196.196, F.S., to specifically describe and limit the religious purposes exemption. Under the bill, the exemption applies if, the property:

- is owned by an entity exempt under section 501(c)(3) of the Internal Revenue Code,
- is used for activities which, according to written correspondence from the Internal Revenue Service, do not endanger its status as an exempt entity,
- is open to the public free of charge at least one day each year,
- is used to exhibit, illustrate, and interpret Biblical manuscripts, codices, stone tablets, and other Biblical archives
- is used to provide live and recorded demonstrations, explanations, reenactments, and illustrations of Biblical history and Biblical worship, and
- is used to exhibit times, places, and events of Biblical history and significance.

This bill has an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1. Creates section 196.1987, F.S., to specifically provide a property tax exemption for property owned by an entity exempt under 501(c)(3) and used for biblical history displays.

Section 2. Provides that the bill shall take effect on July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

Because this bill clarifies present law, it has no impact on local government revenues.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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ORIGINAL

YEAR

A bill to be entitled
An act relating to property tax exemptions; creating s.
196.1987, F.S.; exempting from ad valorem taxation certain
property owned by an organization exempt from federal
income taxes and used to display aspects of Biblical
history; providing limitations; providing an effective
date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 196.1987, Florida Statutes, is created
to read:

196.1987 Biblical history display property exemption.--The
use of property owned by an organization exempt from federal
income tax under s. 501(c)(3) of the Internal Revenue Code to
exhibit, illustrate, and interpret Biblical manuscripts, codices,
stone tablets, and other Biblical archives; provide live and
recorded demonstrations, explanations, reenactments, and
illustrations of Biblical history and Biblical worship; and
exhibit times, places, and events of Biblical history and
significance, where such activity is open to the public and is
available to the public for no admission charge at least 1 day
each calendar year, subject to capacity limits, and where such
organization has received written correspondence from the
Internal Revenue Service stating that the conduct of its
activities does not adversely affect the organization's exempt
status under s. 501(c)(3) of the Internal Revenue Code,
constitutes religious use of such property, which is hereby
defined as property within the purview of s. 3(a), Art. VII of

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30 | the State Constitution and is exempt from ad valorem taxation to
31 | the extent of such use pursuant to s. 196.192(2). Any portion of
32 | such property used for nonexempt purposes may be valued and
33 | placed upon the tax rolls separately from any portion entitled to
34 | exemption pursuant to this section.

35 | Section 2. This act shall take effect July 1, 2006.
36 |
37 |